



W.P.(MD) No.12960 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Orders Reserved On 21.01.2025	Orders Pronounced On 31.01.2025
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CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD) No.12960 of 2023

and

W.M.P.(MD) Nos.10975 and 22746 of 2023

1.E.Mahalingam

2.Sethu Narayan

.. Petitioners

Vs.

1.The Commissioner,
Hindu Religious and Charitable
Endowments Department,
Chennai.

2.The Joint Commissioner,
Hindu Religious and Charitable
Endowments (Admn.) Department,
Madurai.

3.The Assistant Commissioner,
Hindu Religious and Charitable
Endowments (Admn.) Department,
Madurai.

4.The Fit Person,
Arulmighu Gurunathar Swami Koil,



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Melanesaneri,
Thirumangalam Taluk,
Madurai District.

5.K.Seeni Thevar

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to call for the records pertaining to the impugned order passed by the 2nd respondent in Na.Ka.No.10225/2022/E2/,dated 28.03.2023 and quash the same.

For Petitioners	:	Ms.J.Anandhavalli
For RR1 to 3	:	Mr.P.Subbaraj Special Government Pleader
For R4	:	Mr.S.Manohar
For R5	:	Mr.R.Ramachandran

ORDER

The challenge in the writ petition is to the order made by the second respondent dated 28.03.2023.

2. Under the impugned order, the second respondent after discussing various material facts that were placed before him by the



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respective parties, had held that only after the disposal of the suits in O.S.No.78 of 2011 and O.S.No.45 of 2011, pending on the file of the Principal District Munsif Court, Thirumangalam, an order could be passed with regard to the opening of the temple for public worship. However, he had also directed the parties to extend their cooperation for opening of the temple at the earliest.

3. It is to be noted that originally, the Fit Person of the temple had issued orders indicating that the temple would be opened on 07.10.2022. The said communication was challenged by the fifth respondent herein before this Court in W.P.(MD) No.23296 of 2022. After hearing the respective parties in the said writ petition, this Court considering the fact that the temple had been closed as early as in the year 2011 and that no action had been initiated, by its order dated 06.10.2022 had directed the second respondent herein to conduct an enquiry into the affairs of the temple under the provisions of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (hereinafter referred to as “the HR & CE Act”) and decide the rights of the parties in accordance with law as



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expeditiously as possible. It was also held that the pendency of the suits between the inter-parties cannot be a bar for the second respondent to decide about the nature of the temple or as to the right of the rival parties in administering the temple.

4. It has now been informed that the temple had been opened for the benefit of the public worship by the fourth respondent and daily rituals to the deity of the temple are being carried out.

5. It is an admitted fact that there has been disputes with regard to the management of the temple, which had led to filing of rival suits by the contestants.

6. The provisions of Section 63 and Section 64 of the HR & CE Act clothes the jurisdictional Joint Commissioner to decide on issues with regard to the affairs of a temple including the rituals that were to be performed in the temple and also decide as to who should be in the management of the temple by framing a scheme to the temple after



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hearing all the necessary parties concerned. Only to give a quietus to the dispute between the parties, this Court in its order dated 06.10.2022, had directed the second respondent to conduct an enquiry into the affairs of the temple and decide the rights over the management of the affairs of the temple, that too, by specifically holding that the suits pending between the parties will not be a bar for the second respondent to exercise his powers under the HR & CE Act.

7. Notwithstanding the specific finding given by this Court, the second respondent had again reiterated that the issue of opening the temple can only be decided after the disposal of the suits instituted by the rival parties. Such a finding amounts to evading the responsibility that was fixed by the Court based upon the statutory empowerment with the second respondent.

8. In such view of the matter, the impugned order is set aside and the second respondent is directed to exercise his powers conferred under Section 63 and 64 of the Tamil Nadu Hindu Religious and Charitable



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Endowments Act, 1959. Such exercise shall be made by the second respondent within a period of six months from the date of receipt of a copy of this order.

9. With the aforesaid direction, this Writ Petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

31.01.2025

NCC : Yes/No
Index : Yes/No
Internet : Yes

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To

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- 3.The Assistant Commissioner,
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K.KUMARESH BABU, J.

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Pre-Delivery Order made in
W.P.(MD) No.12960 of 2023

Dated: 31.01.2025