



WP(MD) No.14484 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

RESERVED ON
27.11.2024

PRONOUNCED ON
06.01.2025

CORAM:

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD)Nos.14484 of 2023 & 25487 of 2024 &
WMP.(MD).No.12285 of 2023

W.P.(MD).No.14484 of 2023

A.Ramu

... Petitioner

1.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Dept.,
Ramanathapuram,
Ramanathapuram District.

2.The Inspector,
Hindu Religious and Charitable Endowments Dept.,
Thiruvadanai,
Ramanathapuram District.

3.N.Rajendran
4.Naganathan
5.Kalairajan
6.Karuppaiya Kalimuthu
7.Mani
8.Rasappa
9.Muthukumar
10.Senthil
11.Ram Kumar
12.Chandra Mohan

... Respondents



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N.Rajendran

... Petitioner

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- 1.The Commissioner,
Hindu Religious and Charitable Endowments Dept.,
No.119, Uthamar Gandhi Salai,
Nungambakkam, Chennai – 600 034.
 - 2.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Dept.,
Ramanathapuram,
Ramanathapuram District.
 - 3.The District Collector,
Ramanathapuram.
 - 4.The Tahsildar,
Thiruvadanai Taluk,
Ramanathapuram District.
 - 5.The Executive Officer,
Arulmigu Periyannayagiyanman and Karuppar Thirukovil,
Thottamangalam Village,
Thiruvadanai Taluk, Ramanathapuram District.
 - 6.The Inspector,
Hindu Religious Charitable Endowment Dept.,
Thiruvadanai, Ramanathapuram District.
- ... Respondents

PRAYER in W.P.(MD).No.14484 of 2023:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records relating to the impugned order passed by the first respondent in Se.Mu.Na.Ka.No.3725/2022/A7, dated 10.05.2023 and quash the same as



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illegal and pass such other order.

WEB COURT

PRAYER in W.P.(MD).No.25487 of 2024:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the respondent 2 to give effect and implement the orders passed by the second respondent in Se.Mu.Na.Ka.No.3726/2022/A7, dated 11.10.2022 by appointing the 6th respondent as Fit person of the 5th respondent temple and to take charge over the entire temple affairs in the interest of temple affairs, its properties and welfare of all the devotees and to pass such further orders.

For Petitioner : Mr.M.Jerin Mathew in W.P.No.14484/2023
Mr.K.R.Laxman in W.P.No.25487/2024 &
R3 in W.P.No.14484 of 2023

For Respondents: Mr.VR.Shanmuganathan for RR4 to 12 in
W.P.(MD).No.14484 of 2023

Mr.P.Subbaraj Spl., G.P., for RR1&2 in
W.P.(MD).No.14484 of 2023 & RR1 to 6 in
W.P.(MD).No.25487 of 2024.

COMMON ORDER

Challenge in the Writ Petition in W.P.No.14484 of 2023 is an order of appointment of a fit person pending the framing of a scheme in respect of Arul Migu Sree Periyannayagi Amman Thirukovil and Karuppar Alayam.



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2. W.P.No.25487 of 2024 is to give effect to the order impugned in

W.P.No.14484 of 2023.

3. The learned counsel appearing for the Writ Petitioner in W.P.No. 14484 of 2023 would submit that the temples Arul Migu Sree Periyannayagi Amman Thirukovil and Karuppar Alayam had been in existence of more than 200 years and had been administered and maintained by the ancestors of the petitioner. The family of the petitioner had administered and maintained the temple all along and that presently he is the hereditary trustee of the said temple. While that being so, the third respondent herein had attempted to put-spoke in the administration of the temple with a sole intention to take over the same. Hence, the petitioner had also instituted a Suit in O.S.No.131 of 2018 on the file of Sub-court, Ramanathapuram and the same is pending. The third respondent herein had also filed a Writ Petition in W.P.(MD).No.19629 of 2022 seeking for a mandamus to direct the temple to be administered by the seven members representing all the communities of the villagers and the same came to be disposed of, with a direction to the official respondents to consider the same and pass orders. Based upon the said directions, the first respondent herein by order dated



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11.10.2022, appointed a fit person without affording any opportunity to the persons interested and the same came to be challenged by the petitioner in W.P.(MD).No.25682 of 2022. This Court by order dated 04.01.2023 had set aside the same with a direction to the official respondents to conduct a detailed enquiry and also the allegations against the petitioner by way of the evidence and then pass appropriate decision. Pursuant to the said order, notice was issued by the first respondent on 17.03.2023, calling upon the petitioner under Section 49 of the H.R.&C.E., Act. However without considering any of the objections raised by the petitioner or assigning any independent reasons, the present impugned order had been passed. Hence, he had approached this Court in the instant Writ Petition. He would submit that a temple is being administered by the petitioner, as a hereditary trustee and therefore, there was no necessity for framing a scheme with regard to the temple. He would further submit that all the allegations against the petitioner had not been proved either under the impugned order or had an enquiry been conducted to that effect to prove such maladministration and therefore, he would submit that the impugned order is liable to be set aside.



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4. Countering his arguments, the learned Additional Government Pleader would submit that pursuant to the order passed by this Court in W.P.(MD).No.25682 of 2022, a notice of hearing was given to the petitioner and the petitioner and others had appeared before the first respondent and had recorded their statements. It was also to be noted that the Revenue Tahsildar of the Taluk concerned had also conducted a Peace Committee meeting on a dispute that had arisen between the petitioner and the third respondent and other villagers. Considering the fact that the temple is more than 200 years old and is a public temple and that the petitioner had unilaterally claimed that he is a hereditary trustee for the temple. It had become imperative of the first respondent to frame a scheme for the temple. If the petitioner is able to substantiate his claim of hereditary trustee or if the private respondents substantiated their claim as regards to the right of various communities in administering the temple, an appropriate scheme would be framed by the first respondent either framing a scheme or recognised the petitioner as a hereditary trustee or frame a scheme appointing a committee of non-hereditary trustees. The claim of the petitioner of hereditary trusteeship would have to be substantiated by him by producing necessary oral or documentary evidences.



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5.The learned counsel appearing for the third respondent who is also the petitioner in W.P.(MD)No.25487 of 2024, would submit that the order appointing a fit person had been made in view of the dispute with regard to the administration of the temple primarily and not based upon the allegations that had been made against the petitioner. He would submit that the first respondent, while finding that there are disputed claim over the administration of the temple, had decided to frame a scheme based upon the evidences that would be submitted before him. Such authority had been vested with him under the H.R&C.E., Act and the petitioner cannot seek to whittle down such statutory power. Even the claim of the petitioner for hereditary-ship would have to be dealt with only by the first respondent and not by this Court in the present Writ Petition. Therefore, he would pray this Court to dismiss the Writ Petition filed by the petitioner and direct the first respondent to implement the order passed by him.

6.The learned counsel appearing for the newly impleaded respondents would submit that the temple had been administered by the villagers of the temple and that the petitioner herein has misappropriated the funds that had been collected in the name of the temple. He would further submit that the



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dispute between the petitioner and the third respondent had caused a black-log in the administration of the temple. He would further submit that instead of appointment of a fit person, the temple could be effectively managed by interim committee of the villagers belonging to various communities and such administration could be made by the committee so appointed till a scheme is framed by the first respondent. He would submit that even though the newly impleaded respondents do not support the idea of appointment of fit person, there is no objection on their side for framing a scheme for the ultimate management of the temple which is more than 200 years old.

7.I have considered the rival submissions made by the learned counsels appearing on either side and perused the materials placed on record.

8.Various allegations are made against the petitioner by the private respondents, this Court is not inclined to enter upon such disputed questions of fact. Even though the first respondent recorded various such allegations in its order, finally by finding that the temple is being managed without a scheme being framed and that there are disputed claims as regards to the

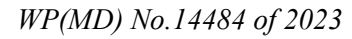


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trusteeship both hereditary and non-hereditary, the first respondent had appointed a fit person in the benefit of the temple till a scheme is framed.

The same is in consonance with Section 49 of the H.R.&C.E., Act. The said order had not been made on the allegations made against the petitioner of maladministration or misappropriation. Therefore, I am of the view that the authority need not give a finding on the allegations made against the petitioner. It is not the case of the petitioner nor the private respondents that a scheme had been framed in respect of the temple.

9. Admittedly, there is a dispute with regard to the management of the temple. The petitioner claims that the temple is being administered by him as being the hereditary trustee, but on the other hand, the private respondents had contended that the temple is being managed by members of seven communities in the said villagers. When such a disputed claim had been made, it is only for the official respondents under the provisions of the H.R.&C.E., Act to find out on the basis of evidence, the manner in which the temple had been administered and will be continued to be administered and the said power had been vested with the official respondents under H.R.&C.E., Act.



11. Considering the fact that the dispute between the parties have been pending for more than a decade and a Suit had also been instituted in respect of the dispute as early as in the year 2018, there shall be a direction to frame a scheme with regard to Arul Migu Sree Periyamayagi Amman Thirukovil and Karuppar Alayam within a period of six months from the date of receipt of a copy of this order.

12. In fine, W.P.No.14484 of 2023 is dismissed and W.P.No.25487 of 2024 is disposed of with the aforesaid directions. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

06.01.2025

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
Pbn



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K.KUMARESH BABU.,J.

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A Pre-delivery order made in
W.P.(MD)Nos.14484 of 2023 & 25487 of 2024 &
WMP.(MD).No.12285 of 2023

06.01.2025