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W.A.(MD)NO.1708 OF 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.07.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MR.JUSTICE K.RAJASEKAR

W.A.(MD)No.1708 of 2023 AND

C.M.P.(MD)Nos.13042 & 13043 of 2023 & 12248 of 2024

Kottanatham Hindu Nadar Uravinmurai,
Rep. by its President,
Kottanatham,
Vilathikulam Taluk,
Thoothukudi District.

... Appellant/Writ petitioner

Vs.

1. The Assistant Commissioner,
Hindu Religious and Chairtable Endowments Department,
O/o.the Assistant Commissioner of HR&CE Department,
Thoothukudi – 628 003.
2. The Tahsildar,
Vilathikulam Taluk Office,
Thoothukudi District,
Thoothukudi.
3. The Executive Officer,
Arulmighu Meenkashi Sundareswar Thirukovil,
Vilathikulam Town and Taluk,
Thoothukudi District.
(Wrongly shown as Thakkar of Arulmighu Muniyasamy temple,
Kottanatham).



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4. The Deputy Superintendent of Police,
District Police Office,
Thoothukudi District.

5. The Inspector of Police,
Vilathikulam police station,
Vilathikulam,
Thoothukudi District.

6. Shri Moorthy

7. Muniyasamy Thevar

8. Subramanian

9. Pandimuniasamy

... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent,
challenging the order dated 17.07.2023 in W.P.(MD)No.13365 of
2023 passed by this Court.

For Appellant : Mr.N.Dilip Kumar

For R-1 & R-2 : Mr.P.Subburaj,
Special Government Pleader.

For R-4 & R-5 : Mr.T.Senthil Kumar,
Additional Public Prosecutor.

For R-6 to R-9 : Mr.V.Karthik Raja,
for M/s.Ajmal Associates.

For R-3 : No appearance.

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J U D G M E N T

(By G.R.SWAMINATHAN, J.)

The appellant filed W.P.(MD)No.13365 of 2023 seeking issuance of writ of Mandamus to forbear the HR&CE authorities from interfering with the appellant's right to manage the petition-mentioned temple. The writ petition was dismissed vide order dated 17.07.2023 by the learned single Judge. The writ petitioner was given liberty to file necessary application under Section 63 of the HR&CE Act before the Joint Commissioner, HR&CE, Thoothukudi. It was further directed that till the decision is taken by the authority, the temple shall be administered by a fit person appointed by the HR&CE Department. Challenging the dismissal order and the aforesaid direction, this writ appeal has been filed.

2. The learned counsel appearing for the appellant initially contended that the temple in question is not a public temple. When we responded that there is a presumption that every temple in Tamil Nadu is a public temple, the learned counsel for the appellant drew our attention to the decision reported in **2003 (1) CTC 65 (The Commissioner, HR&CE V. T.S.Palanichamy)** and contended that the



aforsaid observation of the Privy Council that every temple in Tamil Nadu is a public temple is a misreading of judgment of this Court.

3.It turns out that at least two decisions of the Hon'ble Supreme Court reported in **(1992) 3 SCC 14 (Jammi Raja Rao Vs. Anjaneyaswami Temple)** and **(1981) 1 SCC 445 (T.V.Mahalinga Iyer Vs. State of Madras)** reiterating the presumption that every temple in Tamil Nadu is a public temple was not brought to the notice of the Hon'ble Division Bench which decided **The Commissioner, HR&CE V. T.S.Palanichamy** . Therefore, we have to necessarily reject this contention of the learned counsel for the appellant.

4.It is seen that the learned single Judge dismissed the writ petition filed by the appellant primarily on the ground that the appellant did not choose to challenge the earlier order passed by the HR&CE Department appointing fit person for the temple.

5. The learned counsel for the appellant states that even though a fit person appears to have been appointed on 16.12.2002, they were neither put on notice nor the fit person took charge till the year



2020. Thereafter, the appellant filed W.P.(MD)No.22398 of 2023 questioning the appointment of the fit person. The writ petition was allowed on 13.09.2023.

6. We called upon the HR&CE Department to make a statement if this order was put to challenge. The answer is in the negative. Therefore, we proceed on the premise that the order dated 13.09.2023 in W.P.(MD)No.22398 of 2023 quashing the appointment of fit person had attained finality.

7. Since the presumption is that the appellant temple is a public temple and since the appellant is yet to obtain any declaration to the contrary, the HR&CE Department cannot be restrained from exercising their statutory functions. Therefore, we cannot pass any blanket order restraining HR&CE Department.

8. Since the temple in question as of now is presumed to be a public temple, no villager or any devotee can be restrained by the management from offering worship in the temple during the usual hours.



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9. Since the order appointing fit person has been set aside, the administration and management of the temple will revert to the writ petitioner Uravinmurai. If the HR&CE Department wants to intervene, they have to necessarily take recourse to the procedure laid down in the statute. The order of the learned Single Judge is set aside. This writ appeal stands allowed accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

(G.R.SWAMINATHAN, J.) & (K.RAJASEKAR, J.)
3rd July 2025

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

To:

1. The Assistant Commissioner,
Hindu Religious and Chairtable Endowments Department,
O/o.the Assistant Commissioner of HR&CE Department,
Thoothukudi – 628 003.
2. The Tahsildar, Vilathikulam Taluk Office,
Thoothukudi District, Thoothukudi.
3. The Deputy Superintendent of Police,
District Police Office, Thoothukudi District.
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