

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-11-2025

CORAM

**THE HONOURABLE MR JUSTICE S. M. SUBRAMANIAM
AND
THE HONOURABLE MR.JUSTICE P. DHANABAL**

WA No. 2077 of 2023

1. R.Thirumurugan

Appellant(s)

Vs

1. R.Thennarasu

2.The District Collector
Villupuram District, Villupuram.

3.The Superintendent Of Police
Villupuram District, villupuram.

4.The Deputy Superintendent Of
Police
Gingee Range, Villupuram District.

5.The Joint Commissioner,
Hindu Religious And Charitable
Endowments Department,
Collectorate Campus, Villupuram.
[Suo Motu R5 Is Impleaded, Vide
Order Of Court Dated 11/08/2023
Made In Wa.No.2077 Of 2023]

Respondent(s)

PRAYER

To set aside the order passed in WP No.30770 of 2022 dated 30.11.2022 on

the file of this Court and allow this appeal

For Appellant(s): Mr.A.M.Venkata Krishnan

For Respondent(s): Mr.U.Venkatesan for R1
Mr.S.Senthilmurugan
Special Government Pleader for R2-4
Mr.N.R.R.Arun Natarajan
Special Government Pleader [HR & CE]
for R5

ORDER

(Order of the Court was made by S.M.Subramaniam J.)

Under assail is the writ order dated 30.11.2022 in W.P.No.30770 of 2022.

2. 4th respondent in the writ petition is appellant before this Court. 1st respondent, Mr.R.Thennarasu, filed a writ petition seeking a direction to District Collector to consider his representation dated 26.09.2022 and restrain 4th respondent from interfering with the day-to-day activities of the temple, namely Arul Migu Vembiamman Thirukovil Trust.

3. Writ Court elaborately adjudicated the issues on merits and issued directions to the respondents in the writ petition not to interfere in the administration of the temple by petitioner as Hereditary Trustee for the time

being. However, it is open to HR & CE Department or concerned authority to examine the issue at appropriate level and to take a decision after hearing petitioner as well as 4th respondent or any other person, who claims the right over the temple. Further order was passed stating that 4th respondent or any other third party shall not interfere with the administration of temple by 1st respondent/writ petitioner or his nominee or men by fitting any public address system in the temple or to make any attempt to use the temple for any other purposes other than religious purposes.

4. Admittedly, a dispute exist between appellant and 1st respondent in administering the subject temple. On account of frequent quarrels and disputes, a representation was sent to District Collector for initiation of action. Since no action was taken, a writ petition came to be instituted. Writ Court granted an interim relief in favour of writ petitioner, thereby restraining appellant/4th respondent from interfering with the day-to-day activities of subject temple. The said direction paved way for institution of present Intra-Court appeal.

5. Preliminary issues relating to maintainability of a writ petition has been raised. Thus, it is necessary to examine the characteristic of temple, whether it is a private temple or public temple, for the purpose of issuing directions to HR & CE department to initiate all appropriate actions for proper administration of temple and maintenance of peace and tranquillity in religious

institutions.

6. Section 1(3) of Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (hereinafter referred to as 'Act') states that *"The Act applies to all Hindu public religious institutions and endowments including the incorporated Dewaswoms and Unincorporated Dewaswoms."* Therefore, Act applies to all Hindu religious institutions. Whether a religious institution assumes the character of public institution is to be examined in the context of the provisions of Act.

6.1. Section 6 of the Act provides definition of "Religious Charity". Section 6(16) of the Act defines *"religious charity" means a public charity associated with Hindu festival or observance of a religious character, whether it be connected with a math or temple or not;*

6.2. Section 6(18) defines *"Religious institution" means a math, temple or specific endowment and includes,:* —

(i) a samadhi or brindhavan; or

(ii) any other institution established or maintained for a religious purpose.

6.3. Section 6(20) defines *"temple" means a place by whatever designation known, used as a place of public religious worship and dedicated*

to, or for the benefit of, or used as of right by, the Hindu community or of any section thereof, as a place of public religious worship;

6.4. In the context of above definitions, it would be relevant to consider Section 63 for conducting inquiries. Section 63 is extracted hereinunder:

“63. [Joint Commissioner or Deputy Commissioner] [Substituted by Tamil Nadu Act 38 of 1995.] to decide certain disputes and matters.

- Subject to the rights of suit or appeal hereinafter provided, [the Joint Commissioner or the Deputy Commissioner, as the case may be,] [Substituted by Tamil Nadu Act 38 of 1995.] shall have power to inquire into and decide the following disputes and matters:-

- (a) whether an institution is religious institution;*
- (b) whether a trustee holds or held office as a hereditary trustee;*
- (c) whether any property or money is a religious endowment;*
- (d) whether any property or money is a specific endowment;*
- (e) whether any person is entitled, by custom or otherwise, to any honour, emolument or perquisite in any religious institution; and what the established usage of a religious institution is in regard to any other matter;*
- (f) whether any institution or endowment is wholly or partly of a religious or secular character; and*

whether any property or money has been given wholly or partly for religious or secular uses; and (g) where any property or money has been given for the support of an institution which is partly of a religious and partly of a secular character, or the performance of any service or charity connected with such an institution or the performance of a charity which is partly of a religious and partly of a secular character or where any property or money given is appropriated partly to religious and partly to secular uses, as to what portion of such property or money shall be allocated to religious uses.”

7. A close reading of the above provision would indicate that Joint Commissioner or Deputy Commissioner is empowered to decide whether an institution is a religious institution, which would include, whether it is administered privately, or institution assumes the character of public institution.

8. In the case of ***R. Shanmugha Sundaram Vs. The Commissioner of Hindu Religious and Charitable Endowments Department and Others***¹, Court decided the characteristic of institution before assuming any jurisdiction. It is held that to clutch the jurisdiction of the institution, first of all, HR & CE department has to satisfactorily establish that institution comes under the purview of Sub-section (16) (18) or (20) of Section 6 of Act.

¹ 1991 2 MLJ 582

9. A close reading of Section 6(16), (18) and (20) would indicate that a temple used as a place of public religious worship and dedicated to public is also a temple within the definition of Section 6(20) of the Act. Therefore, it is to be factually decided whether the subject temple is used as a place of public religious worship and dedicated to public for their benefit.

10. The facts of the present case on hand are that admittedly, temple is constructed in a grama-natham land and the land belongs to villagers. In other words, it is a common public land. It is further not in dispute that whole villagers are worshipping deity in temple and contributing for conduct of poojas, festivals, functions etc. When public contributions/donations have been accepted, temple assumes the character of a public institution. If public contributions are involved, State can intervene in case of maladministration or misappropriation of funds, following the procedure as outlined in the Act and Rules, and take necessary actions. Right to administer the temple would not include maladministration. Therefore, power of State is not confined only in respect of notified public religious institutions, since the definition of temple would include temple used as a place of public religious worship and dedicated to, and Joint Commissioner and Deputy Commissioner is empowered to decide issues relating to characteristic of a religious institution.

11. In the present case, none of the parties before this Court would dispute that temple situated in a Government land classified as grama-natham

and the whole villagers are worshipping the deity in the temple. They are contributing for conduct of poojas, festivals, functions etc. Thus, subject temple assumes the characteristic of a temple and would fall under the definition of “Temple” within the meaning of Section 6(20) of the Act.

12. The next question would be whether the directions issued by Writ Court require interference. It is argued by appellant that writ prayer is to consider the representation and restrain appellant from interfering with the activities of the temple administration. However, Writ Court gone beyond the scope of the relief and issued directions. Thus, writ appeal is to be considered.

13. The power of judicial review conferred under Article 226 of Constitution of India need not to be confined to the relief sought for in the writ proceedings. Writ Court vests with powers to mould the prayer or expand the scope in public interest or in the interest of justice. When the scope of a writ petition need not be confined to the relief sought for, this Court do not find any perversity in respect of the adjudication made by Writ Court on merits in an elaborate manner.

14. Writ Court has granted liberty to the parties to approach the Civil Court to resolve private dispute between appellant and 1st respondent in the matter of trusteeship or to administer the temple. However, role of competent authority under HR & CE Act cannot be curtailed, since the subject temple in

the present case is falling under the definition of 'temple' within the meaning of Section 6(20) of the Act. Therefore, in the event of maladministration, illegality or irregularity in dealing with the properties of the temple, the HR & CE department is bound to step in and initiate all appropriate actions. However, department has no power to interfere with the religious practices or performance of poojas in the temple, which is to be done as per the custom and practice prevailing amongst the villagers and adopted in the temple.

15. It is brought to the notice of this Court that application has been filed by the 1st respondent under Section 63(B) of the Act before the Joint Commissioner in OA.No.14 of 2025. Joint Commissioner shall adjudicate the application on merits by affording opportunity to all the parties, and decide the issues in accordance with law. Regarding temple administration, dispute exist between the appellant and 1st respondent may be resolved by approach competent Civil Court of law. As far as the other allegations are concerned, the HR & CE department may conduct an inspection and if necessary, initiate further action by following procedures as contemplated under Act and Rules.

16. Mere pendency of an application under Section 63(b) is not a bar for the department to initiate appropriate action under the Act in order to maintain peace and tranquillity in the subject temple, since whole villagers are worshipping at the temple, and it will be paramount importance to maintain public order in that locality.

17. With the above directions, the Writ Appeal is disposed of. No costs.
Consequently, the connected miscellaneous petitions, if any, are closed.

(S.M.SUBRAMANIAM J.)(P.DHANABAL J.)
21-11-2025

gd

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

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