

(2015) 06 MAD CK 0473

In the Madras High Court

Case No : Writ Petition (MD) No. 3676 of 2013 and M.P. (MD) No. 1 of 2013

Balasubramaniyan

APPELLANT

Vs

The Executive Officer, Hindu Religious and Endowment Board
and Others

RESPONDENT

Date of Decision : 15-06-2015

Acts Referred:

Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 — Section 116

Citation : (2015) 06 MAD CK 0473

Hon'ble Judges : R. Mahadevan, J

Bench : Single Bench

Advocate : S. Muthukrishnan, for the Appellant; J. Gunaseelan Muthiah,
Government Advocate, Advocates for the Respondent

Final Decision : Disposed off

Judgement

R. Mahadevan, J—This writ is for a mandamus directing the respondents not to interfere with the construction activities of the petitioner relating to the temples in Sokkanathapuram Village, Thuraiyur Taluk, Tiruchirappalli District and to that extent, the petitioner submitted a representation to the authorities.

2. The case of the petitioner is that he is residing in Sokkanathapuram Village. The Vinayagar, Mariyamman and Thottichiyamman Temples in his village are under the control and supervision of the respondent Board and the temples have become age old and in a dilapidated condition and therefore they approached the Board seeking permission for renovating the temples by way of collecting donation from the village people and the respondent Board appointed the petitioner alongwith ten others as "Upayadhars" and during construction, some persons in the said village attempted to disturb the construction and therefore a Peace Committee Meeting was held, in which the first respondent said that he was ordered to take charge of the temple by the Board and the temple should not be constructed until the first respondent took over the charge of the temple and it was agreed and even after the first respondent took over the charge, he is

not allowing the upayadhars to continue the construction of the temple. Thereafter, yet another meeting was held on 30.01.2013 and in the said meeting, the first respondent insulted the petitioner curtailed the construction activities and went to the extent of assaulting him though the respondents have no right to intervene in the construction of the temples. The grievance of the petitioner is that the illegal act of the respondents have caused irreparable loss and hardship and mental agony to the petitioner and other upayadhars and had the respondents permitted the construction, the same would have been completed by this time. Therefore, the petitioner is before this Court, with the present writ petition.

3. Notice was ordered and the learned Government Advocate, who took notice on behalf of the respondents, after due instructions, filed a counter affidavit, wherein at paragraph Nos. 3, 4 and 7, it is stated as follows:

"3. It is also submitted that the Commissioner, H.R. & C.E. Department had sanctioned Rs. 4,25,000/- for construction of Mandapam as a donar work in his proceedings Se.Mu.Na.Ka.3414/2010 Y1 dated 18.03.2010 and the Joint Commissioner, H.R. & C.E. Trichy had given administration for sanction Rs. 13,90,000/- for construction of Vinayagar, Mariamman & Bagavathiamman Sannathi and Prakara mandapam as donar work in his proceedings Se.Mu.Mu.Mu. No. 18216/2011 A1 dated 10.01.2011. Even after obtained the above orders from the appropriate authorities the above said Hereditary Trustees had not followed the above proceedings. In the above said proceedings it is clearly mentioned that no donation should be collected from any public and the donar himself contribute the amount for the purpose of the above construction work as per the provision of the Act. In contra the petitioner himself admitted, in his affidavit that "Accordingly we started the construction of the Temple by collecting the donations from the village people by way of money or material", which is against the law and it should be restricted and avoided. Under clause (X) of sub sec.(2) of Sec. 116 of the HR & CE., Act 22/1959, and as the same under the rule 5-A of prevention of improper collection of Rule 5-A defined that any person or group of persons who fail to comply with the direction of such competent authority will be liable for prosecution, under the provisions of the Indian Penal Code.

4. It is submitted that the trustees had violated the Act and collected several donations from the village people for the above construction works without giving proper receipts and without the knowledge of the Department and hereditary trustees demolished the entire temple. The 2nd respondent had received several allegations made against the trustees from the village people stating above facts and as soon as the allegations brought to the knowledge of the 2nd respondent department he directed the 1st respondent to take charge of the above temple for better administration and the 1st respondent also initiated to take charge the temple but the above trustees were adamant and prevented to handover the charge to the 1st respondent and he simply assumed the charge of the temple

on August 2012.

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7. It is further submitted that the allegations set out in para 6 are, all not correct, that 1st and 2nd respondents have no right to intervene in the construction of the Temple and they are ready to cooperate for further construction. And even though the petitioner and other upayadhararars have permitted to construct the Temple, but they were all not followed the conditions of the Commissioner, which are under the provisions of the rules u/s. 116 of the Act and stated that the petitioner and other Upayadharars are all liable to be punished under the provisions made in the Rule 5-A of prevention of improper collection. And hence that the petitioner has no locus standi to agitate the matter and he is not permitted to continue the Thiruppani works unless otherwise the donors can do the construction work without collecting money from the public and within the scope of this act".

4. Thereafter, the petitioner filed an affidavit, wherein in paragraph Nos. 3 and 4, it is stated as follows:

"I state that the temples are situated in the campus. The temples have become age old and dilapidated condition, so the village people represented to the respondents board for the demolition and construction of the new temples in the same place. The respondents board said that there were no funds to construct the temples in our villages. So I and other philanthropists offered to the respondent to construct the temple. The commissioner of board was kind enough to accept our suggestions in his proceeding Na.Ka. No. 3414/2030.Y-1 dated 23.03.2010. Further the Joint Commissioner of Endowment, Tiruchirappalli in his proceedings No. Se.Mu.Moo.Mu. No. 18216/2011/A1 dated 10.01.2011 appointed me and other 10 upayadhargal to construct the temple in our village. Accordingly we started the construction of the temple. We have completed almost 50% of the construction work.

4. I state that I hereby assure and undertake that I and other members of the committee will not collect any money from the public for the construction of the temple".

5. Recording the same, this writ petition is disposed of with the direction to the respondents to pass necessary orders with regard to the renovation of the temples as stated supra in the light of the undertaking affidavit filed by the petitioner referred to above. No costs. Consequently, connected Miscellaneous Petition is closed.