

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN
&
THE HONOURABLE MR.JUSTICE P.G. AJITHKUMAR

Monday, the 22nd day of May 2023 / 1st Jyaishta, 1945
WP(C) NO. 15135 OF 2023

PETITIONER:

SALEESH. V, AGED 35 YEARS, S/O SIVADASAN, VATTIALATH HOUSE,
PILASSERY P.O, KUNNAMANGALAM, KOZHIKODE DISTRICT- 673571.

RESPONDENT:

1. STATE OF KERALA, REPRESENTED BY THE SECRETARY, CULTURAL AFFAIRS DEPARTMENT, THE DIRECTORATE OF CULTURE, ANANTHAVILASAM PALACE, THEKKENADA, FORT PO, THIRUVANANTHAPURAM - 695023.
 2. THE DIRECTOR, DIRECTORATE OF ARCHAEOLOGY, KERALA SUNDARA VILASAM PALACE, FORT P.O. , THIRUVANANTHAPURAM - 695023.
 3. NATIONAL MONUMENTS AUTHORITY, REPRESENTED BY THE DIRECTOR OF ARCHAEOLOGY AND COMPETENT AUTHORITY, KERALA SUNDARA VILASAM PALACE, FORT (PO), THIRUVANANTHAPURAM- 695023.
 4. MALABAR DEVASWOM BOARD, REPRESENTED BY THE SECRETARY, HOUSEFED COMPLEX, ERANHIPALAM PO., KOZHIKODE DISTRICT - 673006.
 5. THE COMMISSIONER, MALABAR DEVASWOM BOARD, HOUSEFED COMPLEX, ERANHIPALAM P.O, KOZHIKODE DISTRICT - 673006.
 6. THE EXECUTIVE OFFICER, THIRUNELLI MAHAVISHNU TEMPLE, THIRUNELLI TEMPLE P.O., WAYANAD DISTRICT-670646.
- ADDITIONAL R7**
7. P.B.KESAVADAS, HEREDITARY TRUSTEE, THIRUNELLI MAHAVISHNU TEMPLE, THIRUNELLI TEMPLE P.O., MANANTHAWADI, WAYANAD DISTRICT, PIN- 670 646 IS SUO MOTU IMPEADED AS PER THE ORDER DATED 22.05.2023.

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to stay all the ongoing renovation works in the temple by the 5th and 6th respondents till the disposal of this Writ Petition.

This petition again coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and this Court's order dated 05.05.2023 and upon hearing the arguments of SRI. H.KIRAN, Advocate for the petitioner and of GOVERNMENT PLEADER for R1 to R3 and of STANDING COUNSEL for R4 and R5, the court passed the following:

p.t.o

ANIL K. NARENDRAN & P.G. AJITHKUMAR, JJ.

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Dated this the 22nd day of May, 2023

ORDER

Anil K. Narendran, J.

P.B. Kesavadas, Hereditary Trustee, Thirunelli Mahavishnu Temple, Thirunelli Temple P.O., Mananthawadi, Wayanad District, Pin-670 646 is *suo motu* impleaded as the additional 7th respondent.

2. Admit.

3. The learned Senior Government Pleader takes notice for respondents 1 to 3. The learned Standing Counsel for Malabar Devaswom Board takes notice for respondents 4 and 5.

4. Issue notice to the 6th respondent and also the additional 7th respondent by speed post.

5. The petitioner, who is a devotee of Sri Thirunelli Mahavishnu Temple in Wayanad District, which is a controlled institution under the 4th respondent Malabar Devaswom Board, has filed this writ petition under Article 226 of the Constitution of India, seeking an order directing the 2nd respondent Director of Archaeology to constitute a monitoring committee consisting of archeological experts to monitor the ongoing renovation works in Sri Thirunelli Mahavishnu Temple to ensure that there is no harm happening to the archeological value of the temple. The petitioner

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has also sought for other consequential reliefs.

6. The document marked as Ext.P1 is a press report appeared in New Indian Express daily dated 07.04.2022, wherein it is stated that the Archaeology Department is kept in dark over the renovation work of Sri Thirunelli Mahavishnu Temple. The document marked as Ext.P2 is another news report that appeared in the Hindu daily dated 25.04.2023, which is one pointing out the necessity to protect the historically significant structures at Sri Thirunelli Mahavishnu Temple.

7. On 05.05.2023, when this writ petition came up for admission, the 2nd respondent Director of Archaeology Department was directed to make a site visit of the Thirunelli Temple and submit a report regarding repair/construction works being carried out in the temple.

8. Today, when this matter is taken up for consideration, the learned Senior Government Pleader has made available for the perusal of this Court the report dated nil of the 2nd respondent Director. From the written instructions dated 20.05.2023 of the 2nd respondent Director, we notice that even before the filing of this writ petition, the officers of the Archaeology Department visited the temple and served a notice on the temple authorities to immediately

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stop all renovation works, which may cause damage to the archaeological and architectural value of the temple.

9. Having considered the materials on record and also the report of the 2nd respondent Director, we deem it appropriate to depute an Advocate Commissioner to conduct inspection of Sri Thirunelli Mahavishnu Temple and submit a report before this Court along with the photographs of the renovation works.

10. In such circumstances, **Sri. M.R. Arunkumar (K-739/2000)**, a lawyer of this Court, is appointed as the Advocate Commissioner, who shall conduct inspection of Sri Thirunelli Mahavishnu Temple premises on **28.05.2023 at 11.00 a.m.** and submit a report before this Court, with photographs of the renovation works going on in the said temple.

11. The remuneration payable to the learned Advocate Commissioner is fixed as Rs.25,000/- (Rupees Twenty five thousand only), which shall be paid by the petitioner before the date of inspection.

12. The learned Senior Government Pleader and also the learned Standing Counsel for Malabar Devaswom Board shall ensure that the concerned officers in the Archaeology Department and also the Malabar Devaswom Board render necessary assistance to the

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learned Advocate Commissioner at the time of inspection.

13. The learned Advocate Commissioner shall be furnished with a copy of the report of the 2nd respondent Director, by the learned Senior Government Pleader.

14. Considering the report of the 2nd respondent Director of Archaeology, there will be an interim order restraining the 6th respondent from proceeding with any renovation works in Sri Thirunelli Mahavishnu Temple, for a period of ten days.

15. The learned Standing Counsel for Malabar Devaswom Board would submit that a copy of this order shall be communicated to the 6th respondent Executive Officer for information and the Executive Officer shall be instructed to inform the hereditary trustee of the temple about the inspection scheduled to be held on 28.05.2023 at 11.00 a.m. The said submission is recorded.

List on 02.06.2023.

Sd/-
ANIL K. NARENDRAN, JUDGE

Sd/-
P.G. AJITHKUMAR, JUDGE

AV/22/5

APPENDIX OF WP(C) 15135/2023

Exhibit P1

**THE TRUE COPY OF THE ORIGINAL NEWSPAPER REPORT DATED
07.04.2022 PUBLISHED IN NEW INDIAN EXPRESS DAILY**

Exhibit P2

**THE TRUE COPY OF THE ORIGINAL NEWSPAPER REPORT DATED
25.04.2023 PUBLISHED IN THE HINDU DAILY**

