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W.P.No.7590 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.04.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.7590 of 2022

Uma Anandan Kuppusamy Krishnamurthy .. Petitioner

Vs.

1. The State of Tamil Nadu
Rep. by its Additional Chief Secretary to Government
Department of Revenue and Disaster Management
Land Administration Wing 1(2) section
Fort St. George, Chennai – 600 009.
2. The State of Tamil Nadu
Rep. by its Secretary (In the rank of
Additional Chief Secretary)
Department of Tourism, Culture and Religious Endowments
Government of Tamil Nadu
Fort St. George, Chennai – 600 009.
3. The Commissioner
Hindu Religious and charitable Endowments Department
Mahatma Gandhi Road
Nungambakkam, Chennai – 600 006.
4. The Commissioner
Department of Revenue and Disaster Management
Ezhilagam, Chepauk, Chennai – 600 005.



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5. The Principal Secretary and
Commissioner of Land Administration
Government of Tamil Nadu
Ezhilagam, Chepauk, Chennai – 600 005.

6. The Director Archaeological Survey of India
Janpat, New Delhi- 110 004.

7. The Chief Secretary
Government of Tamil Nadu, Chennai – 600 009.

8. The Secretary to the Government of India
Ministry of Culture
502 C, Shastri Bhawan
New Delhi – 110 015.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India
praying for a writ of Mandamus directing the respondents 1 to 4, 7 and
8 from forbearing from demolition of any temple exists as on 15
August 1947.

For the Petitioner : Mr.Elephant G.Rajendran

For the Respondents : Mr.R.Shunmugasundaram
Advocate General
Asstd. by
Mr.NRR.Arun Natrajan
Spl. Govt. Pleader (HR&CE)
For Respondents 2 and 3

Mr.P.Muthukumar
State Government Pleader
Ms.A.G.Shakeena
For Respondents 1, 4, 5 & 7

Mr.M.Karthikeyan
For Respondent 8



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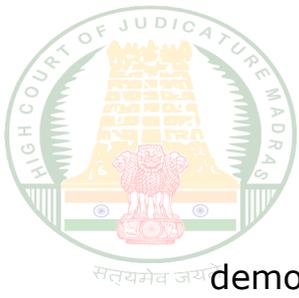
ORDER

(Order of the Court was made by
the Hon'ble Chief Justice)

The public interest litigation has been filed seeking a direction to the respondents not to demolish any temple existed as on 15 August 1947 as per the provisions of the Places of Worship (Special Provisions) Act, 1991.

2. Learned counsel for the petitioner submits that the respondents are taking action to demolish the temple even if it is more than hundred years old and despite becoming a heritage property. The demolition has taken place without serving a notice and following the provisions of law. Therefore, the petitioner was left with no option, but to file this public interest litigation to save these temples which were constructed prior to 15 August, 1947.

3. Learned counsel for the petitioner has given reference to certain temples which are more than hundred years old but



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demolished by the respondents, without applying the provisions of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. A reference to a Government Order of Revenue Department has also been given, where, a Committee was constituted, empowering them to supervise eviction of encroachments on water bodies and other properties. But, without taking the matter to the Committee, empowered by the Revenue Department, demolition of temples had taken place.

4. As regards the life of the temple, learned counsel for petitioner is not aware of it. However, he referred to Section 63 of the Act of 1959. It is submitted that enquiry for it should be conducted by the Joint Commissioner or Deputy Commissioner of the Department and if any of the temples is more than hundred years old or constructed prior to 15 August 1947, the same should not be demolished. A prayer is accordingly made by the petitioner to save the temples. The cause has been taken by the petitioner, being a devotee of the temple and is seriously affected by the action of demolition of the temple by the respondents.



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5. Learned counsel for the petitioner referred to the counter filed in another writ petition. The said writ petition was filed against the demolition of a temple. However, it cannot be taken into consideration by this Court for the reason that the counter has to be read in reference to the writ petition filed therein and cannot be applied in general to any other writ petition. The fact remains that the petitioner, being aggrieved by the action of the respondent in demolition of temple without following the provisions of law, has filed this writ petition.

6. We have considered the submissions made by learned counsel for the petitioner and perused the records.

7. The writ petition has been filed for a direction to the respondents or to forbear them from taking any action to demolish the temples constructed prior to 15 August, 1947. The cut-off date of 14 August 1947 has been taken pursuant to the provision of the Place of Worship (Special Provisions) Act, 1991. In Section 4 of the



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said Act, a declaration was made as to the religious character of certain places of worship existed as on 15 August 1947 and bar of the jurisdiction of the Court, etc. The provision was brought to prohibit conversion of the places of worship and provide for the maintenance of the religious character of any place of worship as existed on 15 August 1947. The aforesaid details are relevant for the purpose given under the Act of 1991 and has been taken by the petitioner to make a prayer against the respondents to forbear them from taking action to demolish the temple.

8. The writ petition can be maintained when there is a cause of action and it should be relevant to the prayer made therein. There is nothing on record to show that the respondents have demolished the temple which was more than hundred years old. The statement of facts has been given in paragraph 35 of the affidavit. To find out the life of the temple referred in the said paragraph, learned counsel for the petitioner was asked to show the year of construction of the temple and the knowledge acquired by the petitioner for that. Learned counsel for the petitioner submits



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that he is not aware of the life of the temple, rather, it should be enquired from the department.

9. In view of the above, the writ petition has been filed for rowing or fishing enquiry. It is not so permissible in the public interest litigation. Otherwise, the statement remains for the sake of it, not supported by any material. When the petitioner has stated that the temple is more than hundred years old, he is under an obligation to disclose the facts for making such submissions and cannot pass the buck on the respondents to find out the life of the temple.

10. The aforesaid is only one part. By giving the names of the temples which were demolished in paragraph 35 of the writ petition, the petitioner wants to pursue the litigation by seeking a direction to the respondents against the action of demolition, but without furnishing any material and for which a writ petition is already pending. If that is so, then the petitioner is doing nothing but multiplying the litigation for no reason and not in reference to any



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first action taken by the respondents. The litigation can be pursued when a cause of action exists and not in vacuum.

11. In the instant case, no cause has been shown by the petitioner to file the writ petition. The vague statement of facts cannot be taken to be the basis for filing the writ petition or for its acceptance. Rather, it should be after proper research of the facts so as to bring the material on record to prove the statement of facts given in the writ petition. The petitioner has utterly failed to do so and filed the writ petition seeking directions without showing the name of the temples said to have been constructed on or before 15 August 1947 and suffered from the action of the nature indicated by the petitioner, without causing a notice or following the provisions the provisions of law.

12. At the cost of repetition, we again clarify that the names of the temples given in paragraph 35 is without required details, that is, when they were constructed and when the alleged action of demolition had taken place.



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13. For the reasons given above, the writ petition fails and is accordingly dismissed. However, if a specific cause is taken up showing the illegality in the action of the respondents, the dismissal of the present writ petition would not restrict the petitioner or others to come out with appropriate litigation, if they so choose. There will be no order as to costs.

(M.N.B., C.J.) (D.B.C., J.)
07.04.2022

Index : Yes/No

kpl/drm

To:

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Department of Revenue and Disaster Management
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M.N.BHANDARI, CJ
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