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W.P.No.449 of 2014



**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED: 17.03.2022

CORAM:

**THE HONOURABLE MS.JUSTICE V.M.VELUMANI**

W.P.No.449 of 2014  
and M.P.Nos.1 & 2 of 2014

M/s. Sri Ram Samaj,  
Rep. by its President,  
47, Arya Gowda Road,  
West Mambalam,  
Chennai – 600 033.

.. Petitioner

**Vs.**

1.The Commissioner,  
Hindu Religious and Charitable Endowments Department,  
34, Nungambakkam High Road,  
Chennai – 600 034.

2.The Assistant Commissioner,  
Hindu Religious and Charitable Endowments Department,  
34, Nungambakkam High Road,  
Chennai – 600 034.

3.The Thakkar / Executive Officer,  
C/o. Arulmigu Balasubramania Swamy Tirukkoil,  
Teynampet,  
Chennai – 600 018.

4.M.V.Ramani

.. Respondents

(R4 impleaded as per order of this Court dated 02.11.2017  
made in M.P.No.1 of 2015 in W.P.No.449 of 2014)



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**Prayer:** Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the second respondent comprised in its proceedings in Na.Ka.No.1947/2012/A1 dated 31.12.2013 and quash the same as being without jurisdiction, illegal, arbitrary and ultra vires the provisions of the HR & CE Act and consequently forbear the respondents, their officers, employees, subordinates, agents or any other persons claiming and / or acting under the respondents from in any manner interfering with the right of the petitioner in carrying on the activities of the petitioner society.

For Petitioner : Mr.Prahalad Bhat  
for Mr.Satish Parasaran

For RR 1 & 2 : Mr.S.Yashwanth  
Additional Government Pleader

For R3 : Mr.P.Willson Topaz  
for Mr.A.S.Kailasam Associates

For R4 : No appearance

### **ORDER**

The petitioner has filed the present Writ Petition challenging the impugned order dated 31.12.2013 of the 2<sup>nd</sup> respondent, by which the Fit



Person is appointed for M/s. Sri Ram Samaj.

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2. According to the petitioner, M/s. Sri Ram Samaj is not a temple and public are not worshipping in the Samaj. It is meant only for members of the Samaj. The right of membership in the petitioner society is not an automatic or vested right of any person and so also the right of entry into the premises of the petitioner society. A large size photographs of Lord Sri Rama, Sri Lakshmana, Sri Sita and Sri Hanuman are installed in the said Samaj and poojas are done only for the photographs. No idols are kept and no poojas are conducted as per Agama Sastra. During celebration of Sri Rama Navami, special prayers are performed to the said photographs and Annadhanam is given on that day by the petitioner Samaj. The petitioner society also arranges special bhajan and lectures in order to propagate the Hindu culture in general and Sri Ramayanam in particular. The petitioner society also conducts various other functions in its buildings such as Veda Parayanam and Homams on auspicious occasions viz., Pradosham days, Gurupeyarchi and Sanipeyarchi, Navarathri days and Maha Sandi Homam. These functions are conducted in the nature of Homams and Vedha Parayanams and no idol consecration and worship according to any Agama Sastra are done. The respondents held that



the said Samaj is a public temple and appointment of Fit Person is necessary.

Hence, the petitioner has come out with the present Writ Petition for setting aside the order of the 2<sup>nd</sup> respondent and allowing the Writ Petition.

3.The 4<sup>th</sup> respondent filed counter affidavit and denied all the averments made by the petitioner.

4.Mr.S.Yashwanth, learned Additional Government Pleader appearing for the respondents 1 & 2 and the learned counsel appearing for the 3<sup>rd</sup> respondent separately contended that the petitioner Samaj is a public temple as per Section 6(20) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. In the petitioner Samaj, idols are kept and regular poojas are conducted and general public come to the temple to participate in the poojas and worship therein. The petitioner receives huge amount and are collecting amount through hundial. The petitioner is not accounting for the amount so received, but are using the same for personal use of its members. Number of complaints have been received about mismanagement of the said Samaj and the Assistant Commissioner, Hindu Religious and Charitable Endowments Department made a spot inspection and found the idols installed



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in the petitioner Samaj and that poojas are conducted and amounts are collected through hundial. The petitioner, in reply to the notice, has admitted that idols are installed in the Samaj and poojas and festivals are conducted regularly.

4(i).The learned Additional Government Pleader appearing for respondents 1 & 2 as well as the learned counsel appearing for the 3<sup>rd</sup> respondent submitted that as per the activities of Samaj, the general public are worshipping in the Samaj. It is a public temple as notified in Section 6(20) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. In order to rectify the mismanagement by members of Samaj, a Fit Person is appointed by the impugned order dated 31.12.2013 by the 2<sup>nd</sup> respondent, which is valid and legal and prayed for dismissal of the Writ Petition.

5.Though the 4<sup>th</sup> respondent entered appearance through counsel and filed counter affidavit, today when the matter is taken up for hearing, there is no representation on behalf of the 4<sup>th</sup> respondent.



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6. Heard the learned counsel appearing for the petitioner, learned Additional Government Pleader appearing for the respondents 1 & 2 as well as the learned counsel appearing for the 3<sup>rd</sup> respondent and perused the entire materials on record.

7. It is the contention of the petitioner that M/s. Sri Ram Samaj is not a public temple and it is meant only for members of the Samaj. On the other hand, it is the case of the respondents that it is a public temple as per Section 6(20) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. The said Section reads as follows:

**“The Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 :**

***Section 6 – Definitions:***

*(20) “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;*



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*Explanation. —Where a temple situated outside the State has properties situated within the State, control shall be exercised over the temple in accordance with the provisions of this Act, in so far as the properties of the temple situated within the State are concerned ”*

8.From the reply sent by the petitioner to the notice as well as from the averments in the affidavit, it is seen that the petitioner has admitted that idols of Sri Rama, Sri Lakshmana, Sri Sita and Sri Hanuman are installed in the said Samaj and poojas are regularly conducted and festivals are celebrated. In addition to that it is admitted by the petitioner that on Pradosham days Abishegum is done to Sivalingam. The only contention based on which the petitioner disproves the case of the respondents is that idols are not consecrated as per Agama Sastra and poojas are not conducted as per Agama Sastra. On the other hand, it is the case of the respondents that idols are kept and regular poojas are conducted by the petitioner Samaj and general public are worshipping. There is a dispute with regard to installation of idols and poojas conducted by the petitioner and that whether Samaj is a public temple or not. This disputed questions of fact cannot be decided in the Writ



Proceedings. However, it is open to the petitioner to challenge the proceedings before the appropriate forum.

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9.For the above reasons, this Writ Petition is dismissed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

**17.03.2022**

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Index : Yes / No  
Internet : Yes / No

To

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Chennai – 600 034.
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**V.M.VELUMANI, J.**

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