

W.P.(MD).No.18485 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Monday, the Thirty First day of July Two Thousand and Twenty Three

PRESENT

The Hon`ble Mrs.Justice S.SRIMATHY

W.P.(MD).No.18485 of 2023

and

W.M.P.(MD).No.15322 of 2023

SENTHILKUMAR.D

... PETITIONER

Vs

1 GOVERNMENT OF TAMIL NADU
REP. BY ITS PRINCIPAL SECRETARY,
DEPARTMENT OF TOURISM,
CULTURE AND RELIGIOUS ENDOWMENTS,
FORT ST.GEORGE,CHENNAI 9

2 THE COMMISSIONER
HINDU RELIGIOUS CHARITABLE ENDOWMENTS DEPARTMENT,
119, UTHAMAR GANDHI SALAI,
NUNGAMBAKKAM,
CHENNAI 34

3 THE EXECUTIVE OFFICER
ARULMIGU PALANI DHANDAYUTHAPANI SWAMY
DEVASTHANAM,
PALANI, DINDIGUL DISTRICT

... RESPONDENTS

Writ Petition filed under Article 226 of Constitution of India, praying this Court to issue of Writ of Mandamus directing the respondents to permit the Hindus alone

<https://www.mhc.tn.gov.in/judis>



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to the Hill Temple Premises and its sub temples and consequently directing the 3rd respondent to display boards to that effect in all entrances based on the representation of the petitioner dated 26.06.2023 and pass such further or other orders as this Honble Court may deem fit and proper in the circumstances of the case and thus render justice.

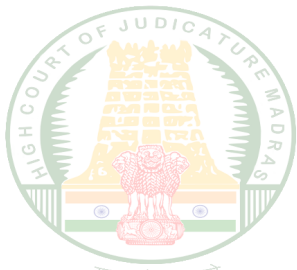
Prayer in WMP(MD). 15322/ 2023 :

To grant an order of Interim Direction, directing the 3rd respondent to affix display board as Non-Hindus are not allowed in the temple premises in all languages in the third respondent temple at all entrances pending disposal of the Writ Petition and thus render justice.

ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.N.Anantha Padmananbhan, Senior Counsel for Mr.RM.Arun Swaminathan, Advocate for the petitioner and of Mr.Veera Kathiravan, Additional Advocate General, assisted by Mr.R.Ragavendran, Government Advocate, on behalf of the Respondents 1 & 2 and Mr.R.Baranidharan, Advocate for the Respondent No.3, the court made the following order:-

Heard Mr.N.Anantha Padmananbhan, the Learned Senior Counsel appearing for Mr.RM.Arun Swaminathan, learned counsel for the petitioner and Mr.Veera Kathiravan, Learned Additional Advocate General, assisted by Mr.R.Ragavendran, learned Government Advocate, who takes notice for the respondents 1 and 2 and Mr.R.Baranidharan, learned counsel, who takes notice for the 3rd respondent.

2. This Writ Petition is filed for Mandamus, directing the respondents to permit the Hindus alone to the Hill Temple Premises and its Sub Temples and consequently,



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directing the 3rd respondent to display Boards to that effect in all entrances based on
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the representation of the petitioner, dated 26.06.2023.

3. The contention of the petitioner is that the entry to the Temple was considered by the Legislature and the Tamil Nadu Entry Authorization Act, 1947 was enacted. The object of the Act is to authorize entry in the Hindu Temples in the State of Tamil Nadu and the offer of worship therein by all classes of Hindus. The contention of the petitioner is that this Act is enacted only for the Hindus and non-Hindus cannot be permitted. The Learned Senior Counsel for petitioner relied on Section 3 of the Act and the same is extracted hereunder:

“3. Right of all classes of Hindus to enter and offer worship in temples.-

(1) Notwithstanding any law, custom or usage to the contrary, every Hindu irrespective of the caste or sect to which he belongs shall be entitled to enter any Hindu temple and offer worship therein in the same manner and to the same extent as Hindus in general or any section of Hindus; and no Hindu shall, by reason only of such entry or worship whether before or after the commencement of this Act, be deemed to have committed any actionable wrong or offence or be used or prosecuted therefor.



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(2) Without prejudice to the generality of the foregoing provision, it is hereby declared that the right conferred by sub-section (1) shall include the following Right of all classes of Hindus to enter and offer worship in temples rights, if, and to the extent to which, they are enjoyed by Hindus in general, or any section of Hindus:-

(a) the right to bathe in, or use the waters of, any sacred tank, well, spring or water-course appurtenant to the temple, whether situated within or outside the precincts thereof;

(b) the right of passage over any sacred place, including a hill or hillock or a road, street or pathway, which is requisite for obtaining access to the temple.”

The Learned Senior Counsel also relied on Rules under the Tamil Nadu Temple Entry Authorization Act, which was framed in G.O.(Ms).No.164 Firka Development, dated 23.03.1948, wherein, under Rule 3 of the said Rules, it has been stated as follows:

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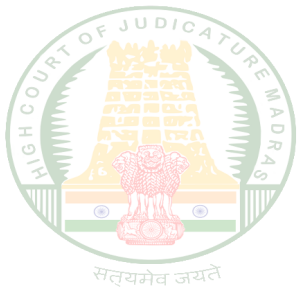


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“The classes of persons mentioned hereunder shall not be entitled to enter or offer worship in a temple or bathe in or use the waters of any sacred tank, well, spring or water-course appurtenant to the temple, whether situate within or outside the precincts thereof, or any scared place including a hill or hillock or a road, street or pathway, which is requisite for obtaining access to the temple.

- (a) Persons who are not Hindus
- (b) Person under pollution arising out of birth or death in their families
- (c) Women at such times during which they are not by custom and usage allowed to enter temples
- (d) Drunken or disorderly persons
- (e) Persons suffering from any loathsome or contagious disease
- (f) Persons of unsound of mind except when taken for worship under proper control and with the permission of the Executive Authority of the temple concerned



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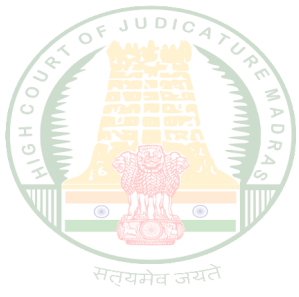
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(g) Professional beggars

4. The learned Additional Advocate General appearing for the respondents 1 and 2 submitted that under Articles 13 and 15 of the Constitution of India, especially, under clause 15(1), the rights of other persons are protected. He also objected for granting interim orders and submitted that it is not the case for granting interim order and sought time to file counter.

5. The said objection of the respondents was refuted by the petitioner by submitting that under Article 15(2) of the Constitution, the Temples are not included and the Temples cannot be used as picnic spots. Moreover, it was brought to the notice of the Court that all these years, there was a prevailing practice of exhibiting a Board in all Temples that non-Hindus are not allowed in the Temple premises. It is not known as to why the respondents had removed the Board.

6. Therefore, this Court is inclined to grant interim status quo ante. The respondents are directed to restore the Board and maintain status quo ante. In the meanwhile, the respondents are directed to file counter.



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7. Post the case on 28.08.2023.

sd/-
31/07/2023

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/08/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

nsr

TO

1 THE PRINCIPAL SECRETARY,
GOVERNMENT OF TAMIL NADU
DEPARTMENT OF TOURISM,
CULTURE AND RELIGIOUS ENDOWMENTS,
FORT ST.GEORGE,CHENNAI 9

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PALANI, DINDIGUL DISTRICT



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+1 cc to THE SPECIAL GOVERNMENT PLEADER , SR NO.11791

ORDER
IN
W.P.(MD).No.18485 of 2023
and
W.M.P.(MD).No.15322 of 2023
Date :31/07/2023

RK/MMS (04/08/2023) 8P / 6C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023