



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 01.03.2023

Pronounced on : 22.06.2023

CORAM

THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

WP(MD)No.27901 of 2022

and

WMP(MD)Nos.21969 & 21971 of 2022

Nallur Chathiram Trust,
Lakshmanapatti Village,
Kulathur Taluk,
Pudhukkottai District,
Rep.by its Trustee,
R.Arunachalam

... Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Rep.by the Secretary,
Revenue and Disaster Management
Department,
Fort.St.George, Chennai.
- 2.The Land Commissioner (FAC),
Chepauk, Chennai – 600 005.
- 3.The District Collector,
Pudhukkottai District.
- 4.The Revenue Divisional Officer,
(Land Reforms), Pudhukkottai.
- 5.The Revenue Divisional Officer,
(Land Reforms), Illuppur.



WEB COPY

6.The Authorised Officer,
(Land Reforms),
Pudhukkottai.

7.The Tahsildar,
Pudhukkottai.

8.Lakshmi

9.S.Murugesan

10.Murugayi

11.Palanichamy

12.Sangilimuthu

13.Kulanthaivelu

14.Sangilimuthu

15.Palanichamy

16.Pichai Rangipiriyar

... Respondents

(R12 to R16 are impleased vide Court dated 13.02.2023)

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of the respondents relating to the issuance of the final statement dated 24.07.1974 culminating to notification under Section 18(1) of the Ceiling Act published in Tamil Nadu Government Gazette dated 19.03.1975, quash the same on the ground that it is vioilative of Section 2 and 13 of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 and to forbear the respondents from taking any further actions under the provisions of the said Act.



For Petitioner : Mr.A.L.Somayaji, Senior Counsel
for Mr.V.Perumal

For Respondents : Mr.R.Baskaran,
Additional Advocate General
assisted by Mr.G.Suriyananth,
Additional Government Pleader
for R1 to R7

Mr.S.R.Rajagopal, Senior Counsel
for Mr.M.Rajarajan for
for R8 to R16

ORDER

The petitioner is a registered Trust. The subject lands were minor Inam lands. The Pudhukkottai Dharbar had granted them for carrying on public charity. The case of the petitioner is that the income derived from the lands was used for charitable and religious purposes. Settlement patta was also granted in favour of the trust. While so, proceedings were initiated under the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961. Notification under Section 18(1) of the Act was published on 19.03.1975. Contending that the present trustees became aware of the same only recently, a revision petition was filed before the Land Commissioner on the ground that the statute itself is inapplicable to the petitioner. The revision petition was dismissed by the Land



Commissioner, Chennai on 12.10.2021 on the ground of limitation.

Challenging the same, this present writ petition came to be filed.

2.The prayer in the writ petition is that the proceedings initiated under the Land Reforms Act should be set aside and the authorities restrained from initiating further action under the Tamil Nadu Act 58 of 1961.

3.The learned Senior Counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. He also took me through the materials enclosed in the typed set of papers. He wants this Court to set aside the impugned proceedings and grant relief as prayed for.

4.The official respondents have filed counter affidavit. Very many objections have been raised therein. The first objection is that the then trustees were very much put on notice. Further proceedings took place only after associating the then trustees. They had been concluded in the year 1975 itself. Only on account of the pendency of the settlement proceedings, for quite some time, further action could not be taken.



Subsequently, several assignments have also been made. It is not open to this Court to put the clock back. The Land Commissioner rightly rejected the claim as stale and belated. The statutory proceedings of the year 1975 cannot be assailed in the year 2022. He also submitted that the petitioner trust cannot be said to be a trust of religious nature. The learned Additional Advocate General submitted that an exclusion clause has to be construed strictly. He pressed for dismissal of the writ petition.

5. Since it was brought to the notice of this Court that the lands declared as surplus had been assigned in favour of the individuals, I directed the official respondents on 14.02.2023 to intimate the interested persons by making locality publication in any appropriate mode about the pendency of this writ petition. On receipt of the information, a number of assignees got themselves impleaded. The learned Senior Counsel appearing for the assignees strongly submitted that there is no merit in this writ petition. The persons claiming to be at the helm of affairs cannot be permitted to take a stand contrary to what the then trustees took. It is further submitted that the petitioner Trust has virtually become defunct. Photographs of the dilapidated condition of the trust building was shown. It is further suggested that a group of persons with the



WEB COM

intention to grab the trust lands have set up this litigation and pressed for dismissal of the writ petition.

6.I carefully considered the rival contentions and went through the materials on record. The impugned order rests only on limitation. The Land Commissioner has not gone into the merits of the matter. Section 2 of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 is as follows :

“2.Act not to apply to lands held by existing religious institution or religious trust of public nature. -

(1) Subject to the provisions of sub-sections (2) and (3) and of section 6, nothing contained in this Act shall apply to lands held,-

- (i) by an religious institution, or
- (ii) by any religious trust of a public nature, which in existence on the date of the commencement of this Act.

(2) Notwithstanding anything contained in sub-section (1), no such religious institution or religious trust of a public nature as is referred to in sub-section (1) shall acquire by any means whatsoever any land after the date of the commencement of this Act.

(3) Notwithstanding anything contained in this Act, for the purposes of this section-

- (a) where a public trust in existence on the date of the commencement of this Act, has been created both for a public



purpose of a religious nature and for any other public purpose;
or

(b) where the income from a public trust in existence on the date of the commencement of this Act is appropriated both for a public purpose of a religious nature and for any other public purpose, such public trust shall be deemed to be a religious trust of a public nature.”

If it can be shown that the income of the trust is appropriated for a public purpose of religious nature, it shall be deemed to be a religious trust of public nature. In that event, the provisions of the Act itself will not be applicable. A scheme of administration of the petitioner trust was framed vide decree dated 13.09.1957 in O.S No.76 of 1951 on the file of the Sub Court, Pudhukkottai. Lands had been endowed by Pudhukkottai Dharbar in the name of one Brahadambal Ammal for charitable purpose. That the petitioner is a public charitable trust is beyond dispute.

7.The only question that calls for consideration is whether it is also of a religious nature. My attention has drawn to the order dated 04.09.1975 made in O.A No.24 of 1974 on the file of the Deputy Commissioner, Hindu Religious and Charitable Endowments (Administration) Department, Tiruchirappalli. In the said order, it has been mentioned that Annadhana Chatram, Nallur is a choultry for feeding



WEB CODE

the pilgrims going to Ramemshwaram. A reading of the said order clearly indicates that the funds of the charity were utilized for Chidambareswarar Temple. Ex.A11 marked in the said proceedings is the Day Book of the Nallur Chatram from 07.12.1960 to 29.02.1964 maintained by the Tahsildar Trustee. Its contents prove that the temple was renovated out of the choultry funds. The Deputy Commissioner, Hindu Religious and Charitable Endowments (Administration) Department, Tiruchirappalli directed that 25% of the properties of the Nallur Chatram Trust can be set apart for the maintenance of the Chidambareswarar Temple. The rice cooked in the choultry was offered as Neivaidyam to the deities.

8.After going through the aforesaid official proceedings, one has to necessarily come to the conclusion that the contention that Nallur Chatram is a public charitable trust of a religious nature within the meaning of Section 2 of Tamil Nadu Act 58 of 1961 cannot be brushed aside. It is purely a question of fact. This issue cannot be tested in writ proceedings in a summary manner. There has to be an enquiry. If at the end of the enquiry, one can conclude that Nallur Chathiram Trust is a public charitable trust of a religious nature within the meaning of Section 2 of the Act, the entire proceedings will become void and without



jurisdiction. The question of invoking limitation will not arise at all.

The Land Commissioner, Chennai had proceeded on the premise that the proceedings initiated under Tamil Nadu Act 58 of 1961 have been validly issued and since the then trustees have been put on notice, there cannot be a challenge after a lapse of so many years. The Land Commissioner had misdirected himself in law as well as on facts. If the question raised by the petitioner is answered in their favour, all the proceedings so far initiated will become void. Therefore, this preliminary enquiry should have been taken place. Instead, the Land Commissioner chose to show door to the petitioner on the ground of limitation. It is clearly incorrect. The fact that the then trustees have been put on notice is beside the point. The trust itself was mismanaged and that is why, the then Pudhukottai Dharbar had to intervene. A scheme of administration was framed by the Sub Court, Pudhukottai only because of this reason. In matters pertaining to public trusts and temples, the authority seized of the matter should assume parens patriae jurisdiction.

9.It is relevant to note here that parallelly the settlement proceedings were also going on. The Assistant Settlement Officer,



Pudhukottai had passed an order on 01.05.1972 in favour of the trust.

Questioning the same, the State of Tamil Nadu rep.by the Collector of Pudhukottai filed an appeal before the Inam Abolition Tribunal, Pudhukottai. The tribunal vide order dated 16.07.1983 confirmed the order of the Assistant Settlement Officer, Pudhukottai directing grant of Ryotwari patta. Questioning the same, STA No.1 of 1999 was filed before the Hon'ble Division Bench of this Court. The Hon'ble Division Bench dismissed the appeal. In these circumstances, when jurisdictional issues have been raised, the authority could not have non-suited the petitioner on the ground of limitation. The order impugned in this writ petition is set aside. The matter is remitted to the file of the second respondent. Since in the meanwhile assignments have been made in respect of surplus lands, proper notice shall also to be issued to the assignees. The question to be decided by the second respondent is whether the petitioner trust is entitled to seek exemption set out in Section 2 of the Tamil Nadu Act 58 of 1961. Since Section 2(3)(b) of the Act states that if the income from a public trust was appropriated both for a public purpose of a religious nature and for any other public purpose, such public trust shall be deemed to be a religious trust of a public nature. I make it clear that the observations made in this order are only



for the purpose of formulating the issue stated above. I have not touched on the merits of the matter. The Land Commissioner, Chennai shall decide the issue uninfluenced by any of the observations made in this order. Till the Land Commissioner, Chennai decides the issue, no further order shall be passed or action taken by the official respondents pursuant to the impugned notification.

10.This writ petition is allowed on these terms. No costs.
Connected miscellaneous petitions are closed.

26.06.2023

Index : Yes / No
Internet : Yes/ No
SKM

- 1.The Secretary, Revenue and Disaster Management Department,
Fort.St.George, Chennai.
- 2.The Land Commissioner (FAC), Chepauk, Chennai – 600 005.
- 3.The District Collector, Pudhukkottai District.
- 4.The Revenue Divisional Officer, (Land Reforms), Pudhukkottai.
- 5.The Revenue Divisional Officer, (Land Reforms), Illuppur.
- 6.The Authorised Officer, (Land Reforms), Pudhukkottai.
- 7.The Tahsildar, Pudhukkottai.



WEB COPY



G.R.SWAMINATHAN, J.

SKM

WP(MD)No.27901 of 2022
and
WMP(MD)Nos.21969 & 21971 of 2022

26.06.2023