



WEB COPY

W.A.No.660 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

W.A.No.660 of 2021
and
C.M.P.No.3448 of 2021

The District Collector,
Collector Office,
Namakkal.

... Appellant

Vs.

Kongu Nattu Vellalar Trust,
26A, Pookadai Street,
Rasipuram – 637 408
(Represented by its Secretary
B.N.Kandasamy).

... Respondent

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 08.03.2019 made in W.P.No.4567 of 2012 and allow this writ appeal.

For Appellant

: Mr.R.Ramanlaal
Additional Advocate General
For Mr.A.Selvendran
Special Government Pleader



WEB COPY



W.A.No.660 of 2021

For Respondent : Mr.Sricharan Rangarajan
Senior Counsel
For Ms.Anu Ganesan

J U D G M E N T

[Judgment was delivered by **S.M.SUBRAMANIAM, J.**]

The writ order dated 08.03.2019 passed in W.P.No.4267 of 2012 is sought to be assailed in the present writ appeal.

2. The District Collector, Namakkal is the appellant. The respondent has instituted a writ petitioner seeking sanction / permission for construction of Siddha Hospital in the temple land in S.No.33/2, Annaikattipalayam, Koonavellampatti Village, Rasipuram Village, Namakkal District. The Writ Court set aside the rejection order and directed the respondent therein to grant sanction / permission for construction of a Siddha Hospital. Aggrieved by the said direction, the District Collector preferred the present writ appeal.

3. Mr.R.Ramanlal, learned Additional Advocate General appearing on behalf of the appellant would submit that the land measuring 4.27 acres in S.No.33/2 is classified as Government Poramboke in revenue records. No



W.A.No.660 of 2021

doubt, Kongu Nattu Vellalar Community people of that area constructed a temple and worshipping for several years. However, now they started claiming the entire 4.27 acres of land nearby the temple. It is a valuable land and the Government has proposed to utilise the land for various public purposes. Thus, an action was initiated. The learned Single Judge has not considered the fact that larger extent of land measuring 4.27 acres is a Government Poramboke land and the temple has been constructed in a small area. The Government has no proposal to take over the temple area, but decided to utilise the other areas for public purposes. Thus, the District Collector has chosen to file the present writ appeal.

4. To substantiate the claim, the learned Additional Advocate General furnished the original 'A'-Register, which would reveal that the classification has been entered as “Government Poramboke”. In Column No.12 it is mentioned as “Vinayagar Temple”. Therefore, the Vinayagar Temple has been constructed in the Government Poramboke land and the people of Kongu Nattu Vellalar Community is worshipping the temple for several years. The original Filed Measurement Book (FMB) sketch of Anaikattupalayam Village, Rasipuram Taluk also has been produced. The



W.A.No.660 of 2021

FMB sketch would indicate that in the larger extent of Government Poramboke land, Vinayagar Temple has been constructed in a small portion. Relying on the original A Register and FMB records, the learned Additional Advocate General would submit that the Writ Court has granted permission, which is not in consonance with the revenue records including FMB sketch.

5. Ms.Anu Ganesan, learned counsel for the respondent would oppose by stating that the temple has been constructed by Kongu Nattu Vellalar Community people three hundred years back. They are utilising the land for various temple related purposes. They are running Siddha Hospital for benefit of the people of that locality. They are doing several charitable activities and the land is under the control of the temple authorities. Therefore, the writ order granting permission is in accordance with law and the writ appeal is to be rejected.

6. The Writ Court while considering the issues recorded the counter statement filed by the District Collector, which reads as under;

“4. It was stated that an enquiry was conducted as directed on 21.11.2007. It was stated that the proposed construction of Siddha



W.A.No.660 of 2021

hospital was not permitted and an order was also passed on 03.12.2007. It was stated that the petitioner trust was found only for the sake of Kongu Nattu Gounder community. It was further stated that the Panchayat was not the competent authority to grant permission for construction of temple. It was further stated that there was already a Siddha wing in the Government Head Quarters Hospital, Rasipuram. There were also three Primary Health Centres functioning to the cater to the needs of the public. It was stated that permission from the Government Siddha Medicinal Department, Certificate from the Pollution Control Board, Health Department and approved plan for proposed construction had not been produced by the petitioner trust. It was therefore stated that the respondent had rejected the proposal for construction of a Siddha hospital and such rejection does not warrant interference by this Court.”

7. Though the counter statement has been recorded by the Writ Court, the same has not been considered with reference to the 'A'-Register and the FMB sketch. The Collector has stated that already a Siddha wing in the



W.A.No.660 of 2021

Government Headquarters Hospital, Rasipuram is catering the needs of the people of that locality. Three Primary Health Centres are functioning in that area. Therefore, granting permission to one more Siddha Hospital in the Government Poramboke land became unnecessary. The counter in this regard has not been considered by the Writ Court.

8. The Revenue Standing Order (RSO) 26 Clause 13 deals with “Temple Poramboke”, which reads as under;

“13. Temple Poramboke: (1) *In order to safeguard the ownership of the State in temple porambokes all such porambokes should be azmoished every year. Purely temporary occupations connected with festivals or religious ceremonies are allowed and all other occupations should be treated as encroachments.*

(2) *Occupations of the temple porambokes found to be in excess of the requirements of the temple may be permitted to be utilised not only for purpose of cultiation but also for purposes such as construction of houses, business premises, etc., which will augment the revenues of the temple. The temple porambokes so permitted will be sub-divided and transferred to Assessed Waste and*



WEB COPY



W.A.No.660 of 2021

assigned to the temple free of cost with a patta in its name and the temple (i.e. whoever manages the temple) might then lease out such lands for cultivation or other purposes and utilise the income for the temple purposes.”

9. Even as per the Revenue Standing Order (RSO) as stated above, the appellant is empowered to initiate action to resume the Government Poramboke lands and utilise the same for public purpose.

10. Beyond the facts, it is to be construed, whether the respondent can claim title / ownership over such Government Poramboke lands. Through original records we could found that it is a Government Poramboke land, wherein, Vinayagar Temple has been constructed by a particular community people. The Government has taken a decision not to disturb the temple area. But decided to utilise the remaining area for public purposes. The respondent has not established their title or ownership by producing any documents. In the absence of any contra documents, the revenue records being maintained by the Government is to be relied upon to form an opinion that the subject property is a Government Poramboke land. Thus, there is no impediment for the District Collector to take over the land and utilise the same for public



W.A.No.660 of 2021

purposes except the temple area, which need not be disturbed.

WEB COPY

11. In view of the facts and circumstances, the writ order dated 08.03.2019 passed in W.P.No.4267 of 2012 is set aside and the Writ Appeal stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

[S.M.S., J.] [N.S., J.]
05.07.2024

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes



WEB COPY



W.A.No.660 of 2021

S.M.SUBRAMANIAM, J.
and
N.SENTHILKUMAR, J.

Jeni

W.A.No.660 of 2021

05.07.2024