

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN
&
THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

WEDNESDAY, THE 1ST DAY OF APRIL 2015/11TH CHAITHRA, 1937

WP(C).No. 3414 of 2013 (B)

PETITIONER(S):

JNANGATTIRI BHAGAVATHY DEVASWOM
THRITHALA, OTTAPPALAM TALUK, PALAKKAD DISTRICT
REPRESENTED BY ITS EXECUTIVE OFFICER.

BY ADV. SRI.MOHAN C.MENON

RESPONDENT(S):

1. THE MALABAR DEVASWOM BOARD
REPRESENTED BY ITS COMMISSIONER
KOZHIKODE - 673 001.

2. THE DISTRICT COLLECTOR,
PALAKKAD - 678 001.

*3. THE VILLAGE OFFICER,
THRITHALA

(ADDL.R3 IS IMPEADED AS PER ORDER DATED 2.3.2015)

BY SR.GOVERNMENT PLEADER SRI.A.RANJITH
R1 BY SRI.B.PARTHASARATHY, SC, MALABAR DEVASWOM BOARD
SRI.V.KRISHNA MENON, SC, MALABAR DEVASWOM BOARD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01-04-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) EXHIBITS

- EXHIBIT P1. TRUE COPY OF THE REPORT SUBMITTED BY THE SPECIAL TEAM REGARDING THE PETITIONER DEVASWOM DATED 15.02.2007.
- EXHIBIT P2. TRUE COPY OF THE REVENUE REGISTER EXTRACT.
- EXHIBIT P3. TRUE COPY OF THE LETTER SENT BY M.GIRIDHARAN, EXECUTIVE OFFICER OF PETITIONER DEVASWOM TO 1ST RESPONDENTTT DATED 31.03.2011.
- EXHIBIT P4. TRUE COPY OF THE LETTER SENT BY PETITIONER TO THE 2ND RESPONDENT DATED 03.06.2012.
- EXHIBIT P5. TRUE COPY OF THE REPRESENTATION DATED 14.01.2013 WAS SUBMITTED TO THE 1ST RESPONDENT BY PETITIONER.

RESPONDENTS' EXHIBITS

NIL

/TRUE COPY/

VPS

PS TO JUDGE

P.N.RAVINDRAN & ANIL K.NARENDRA, JJ.

W.P.(C) No.3414 of 2013

Dated this the 1st day of April, 2015

J U D G M E N T

P.N.Ravindran, J.

The Jnangattiri Bhagavathy Devaswom represented by its Executive Officer has filed this writ petition mainly seeking a comprehensive survey of the lands belonging to the Devaswom. The relief sought in the writ petition is as follows:-

"(a) A writ in the nature of mandamus commanding the respondents to effect comprehensive survey of Jnangattiri Bhagavathy Devaswom land situated in R.S.284 (Patta 96) in Thrithala Village, Ottappalam Taluk, Palakkad District in a time bound manner, with notice to the petitioner and occupants.

2. Such a relief was sought on the basis that the Devaswom lands are situate in R.S.No.284 of Thrithala Village, Ottapalam Taluk, Palakkad District. Pursuant to various interim orders passed by this Court, a survey of the aforesaid lands was conducted under the supervision of the Taluk Surveyor, Pattambi, who was authorised to conduct the survey by the District Collector, Palakkad by letter dated 8.10.2014. The Village Officer, Thrithala has after conducting the survey, filed a report in this Court. The said report is extracted in full.

"1. The Hon'ble High Court of Kerala in WP(C)

No.3414/2013 (B) passed interim order on 7.10.2013 to complete the survey of the disputed land in Survey No.284 (Patta No.96) of Nhangattiri Desom in Thrithala Village by the Village Officer, Thrithala before 17.10.2014 and to file report on or before 20.10.2014. In compliance of the Order of this Hon'ble Court, the Village Officer, Thrithala has completed the survey on 14.10.2014 under the supervision of Taluk Surveyor, Pattambi Taluk appointed by the District Collector, Palakkad as per letter No.G4-2013/15779/9 dated 8.10.2014. The whole extent of landed properties comprised in Survey Nos.284/4, 284/6, 284/7, 284/8 and 284/9, and the possessions in Survey No.284/10 lying adjacent to the temple and the Arattukadavu of the temple in Sy.284/16 were surveyed and the findings recorded on the Sketch appended to this, is submitted before this Hon'ble Court.

2. Among the 16 Survey Sub Divisions in Survey No.284 of Nhangattiri Desom, the only Sub Division with patta No.96 as per the Village records (Chitta) is 284/6 of which the name of Pattadhar is Nhangattiri Devaswom Uralar (1) Mayarakkara Iravi Moosad and (2) Modappakkat Sankaran Moosad. According to the Village records, an extent of 36 cents of land comprised in Survey No.284/7 is unassessed Temple land. The Patta number of the land in Survey No.284/4 is 558 and the name of Pattadar is Nhangattiri Variyath Krishna Variar under the Nhangattiri Devaswom Uralar, and the Patta number of the land in Survey No.284/9 is 515 and the name of Pattadar is Nhangattiri Pisharath Kuttikrishna Pisharady under the Nhangattiri Devaswom Uralar. The Patta number of the lands comprised in Survey Nos.284/8, 284/10, and 284/16 is 50 and name of Pattadar is Nechikkat Illth Kesavan Moosad.

The area of land occupied by the present possessors in each Survey number of the surveyed land is tabled in the sketch."

3. Along with the report he has enclosed a sketch prepared after survey. Shortly after the report was filed, the petitioner filed I.A.No.16838 of 2014 to amend the prayer portion of the writ petition. In paragraph 1 of the affidavit filed in support of the application, the

Executive Officer of the petitioner Devaswom had averred that he took charge only on 31.3.2012 and his acquaintance with the temple commenced only thereafter. In paragraph 2 he has averred that when the survey was being conducted, he verified some old documents available in the Devaswom office and thereupon he came to know that in addition to the lands situate in R.S.No.284, the lands situate in various other survey numbers set out below are also Devaswom lands.

<i>Sl.No.</i>	<i>Re-Survey No.</i>	<i>Remarks</i>
1	257/1	Njangattoor Pisharam Kychit Devaswom land
2	264/6	Njangattoor Pisharam Kychit Devaswom land
3	267/4	Njangattoor Pisharam Kychit Devaswom land
4	268/5	Njangattoor Pisharam Kychit Devaswom land
5	269/3	Variyam kychit
6	273/3	Pisharam Kychit
7	275/1	Hariyam Kychit
8	275/2	Pisharam Kychit
9	275/5	Variyam Bhagapathram, partitioning temple land
10	275/6	Variyam Kychit
11	275/9	Pisharam Kychit
12	275/10	Pisharam Kychit
13	283/7	Pisharam Kychit
14	284/1	Temple land
15	284/2	Temple land
16	284/3	Temple land
17	284/4	Ulsava Parambu Temple land
18	284/5	Devaswom parking ground
19	284/6	Devaswom land, Oottupura, office
20	284/7	Temple
21	284/8	Devaswom land
22	284/9	Devaswom land
23	284/10	Aalthara, Hanuman Temple
24	284/11	Devaswom land

<i>Sl.No.</i>	<i>Re-Survey No.</i>	<i>Remarks</i>
25	284/12	Devaswom land
26	284/13	Devaswom land
27	284/14	Devaswom land
28	284/15	Devaswom land
29	284/16	Aarattukadavu Devaswom land
30	284/17	Devaswom land
31	284/18	Devaswom land
32	284/19	Devaswom land
33	285/1	Devaswom land Pariyam Kychit
34	285/3	Devaswom land Pariyam Kychit
35	285/4	Devaswom land Pariyam Kychit
36	285/5	Variyam, Pisharam Kychit, Devaswom land
37	285/7	Pisharam Kychit, Devaswom land
38	300/6	Pisharam Kychit, Devaswom land

4. He has also averred that out of the 38 items listed above, the present survey report covers only items 13, 16, 17 to 23, 26, 28 and 29. He therefore prayed that the relief portion of the writ petition be amended as follows:-

"(a) A writ in the nature of Mandamus, commanding the respondents to effect a comprehensive survey of Njangattiri Bhagavathy Devaswom land situated in Nos.257(1), 264(6), 267(4), 268(5), 269(3), 273(3), 275 (1, 2, 5, 6, 9, 10), 283(7), 284 (1 to 19), 285 (1, 3, 4, 5, 7) and 300(6) in Thrithala Village, Ottappalam Taluk, Palakkad District in a time bound manner, with notice to petitioner and occupants."

I.A.No.16838 of 2014 was heard and allowed by order passed on 19.1.2015.

5. When the writ petition came up for hearing today, learned counsel appearing for the petitioner submitted that in view of the fact that the survey has been completed in respect of the lands situate in R.S.No.284, the writ petition may be disposed of with a direction to

the respondents to complete the survey of the lands referred to in the prayer portion of the amended writ petition in a time bound manner.

In such circumstances as part of the survey has already been conducted pursuant to the orders issued by this Court by the Taluk Surveyor, Pattambi, we dispose of the writ petition with a direction to the District Collector Palakkad to cause a survey of the lands referred to in paragraph 3 above, under the supervision of the Taluk Surveyor, Pattambi and to complete the survey before 31.12.2015. The expenses for the survey shall be met by the petitioner Devaswom. The District Collector, Palakkad shall after the survey is conducted direct the Taluk Surveyor, Pattabi to furnish a comprehensive sketch including the details shown in the sketch produced by the Village Officer, Thrithala Village along with the statement dated 7.10.2014, to the Executive Officer of the petitioner Devaswom. The parties shall bear their respective costs.

**P.N.RAVINDRAN,
(JUDGE)**

**ANIL K.NARENDRA,
(JUDGE)**

vps

