

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.12553 of 2016

&

W.M.P.Nos.10848 and 10849 of 2016

V.Padmanabhan

... Petitioner

Vs.

1. The District Collector,
Kanchipuram,
Kanchipuram District.
2. The Executive Officer,
St.Thomas Mount-cum-Pallavaram,
Cantonment Board, Pallavaram.
3. The Tahsildar,
Alandur Taluk,
Alandur, Chennai-16.
4. Indira Gandhi Centre for Atomic Research,
Represented by its Director,
Department of Atomic Energy,
Kalpakkam.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the third respondent to act in accordance with the directive of the first respondent, dated 02.09.2014.

For Petitioner : Mr.V.Raghavachari

For Respondents : Mr.M.Dig Vijay Pandian,
Additional Government Pleader
for RR-1 to 3

Mr.J.Madanagopal Rao for R-4

ORDER

The petitioner has filed this Writ Petition praying for issuance of a Writ of Mandamus to direct the third respondent to act in accordance with the directive of the first respondent, dated 02.09.2014.

2. It is the case of the petitioner that his family has been in management and administration of Bajana Temple in Pallavaram for over a century and the Temple is situated in S.No.753, Pallavaram Village, Alandur Taluk, Kancheepuram District. A perusal of the general land register of Pallavaram clearly indicates that area of 4792 Sq.Ft. is reflected as "Temple proamboke". The Street in front of the Temple is named Bajana Koil Street, as it is a custom in South India that a Street built for a Temple can be named after the Temple. Thus, the Temple is in existence even before the roads were laid in the Village. Due to certain issues, O.S.No.1023 of 1984 came to be filed before the District Munsif Court, Poonamallee for permanent injunction restraining the defendants therein from interfering with the management and administration of the Temple and also restraining them from making any structural alterations to the Temple; the schedule clearly indicates the existence of the Temple as on the date of institution of the suit.

3. It is further stated by the petitioner that there was robbery in the Temple in respect of its possessions, including the idol installed in the Sanctum Sanctorum and the original structure of the Temple is also collapsing. The petitioner and his family members raised funds by personal means to construct/renovate the Temple. On 16.12.2008, the petitioner wrote to the Executive Officer of Cantonment Board, Pallavaram seeking permission to raise construction. On 16.02.2011, reminder was sent by the Trustee V.Kamalakkannan, who also wrote to the District Collector on 21.02.2011 and it was forwarded to the Chief Executive Officer, Cantonment Board, St.Thomas Mount on 02.03.2011. Since there was no action and in order to protect the lands, the petitioner attempted to raise a fence around the property. The Revenue officials interfered with the construction and intimidated the petitioner with the help of Police. The aforementioned facts were also written to the Chief Minister's Cell on 14.12.2012.

4. It is further stated by the petitioner that when the foundation stone for re-construction was laid, many members of the Legislative Assembly were present and on 03.11.2012, inspite of substantial investment having been made, their subordinates stalled further progress. Due to non-co-operative attitude of

the statutory officers, the petitioner was forced to make an application under the Right to Information Act on 28.11.2013 and a reply was received stating that the land in S.No.753 ad-measuring 4792 Sq.Ft. reflected as "Temple poramboke", which had been transferred to Indira Gandhi Centre for Atomic Research, Kalpakkam and it was also replied that no proposal has been recommended to the Government seeking order. The above said facts were brought to the notice of the Collector by letter dated 26.02.2014 and since no reply was forthcoming, again, on 18.08.2014, same request was made. On 02.09.2014, the first respondent directed the third respondent-Tahsildar to enquire into the matter. As the fourth respondent is attempting to put up construction on the land and during the excavation of the land, the basement stones of the Temple are being disturbed, which are sacred and have historical value, the petitioner has filed this Writ Petition for the above relief.

5. Heard both sides.

6. Taking into consideration the facts and circumstances of the case, this Court, without going into the merits of the case, directs the third respondent-Tahsildar to conduct enquiry in the matter, afford an opportunity of personal hearing to the petitioner and necessary parties and also based on the direction already issued by the first respondent-District Collector to the third respondent-Tahsildar on 02.09.2014, and thereafter pass appropriate orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion on the merits of the claim of the petitioner and it is for the concerned authorities to decide the same.

7. With the above observations and directions, the Writ Petition is disposed of. No costs. W.M.Ps. are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

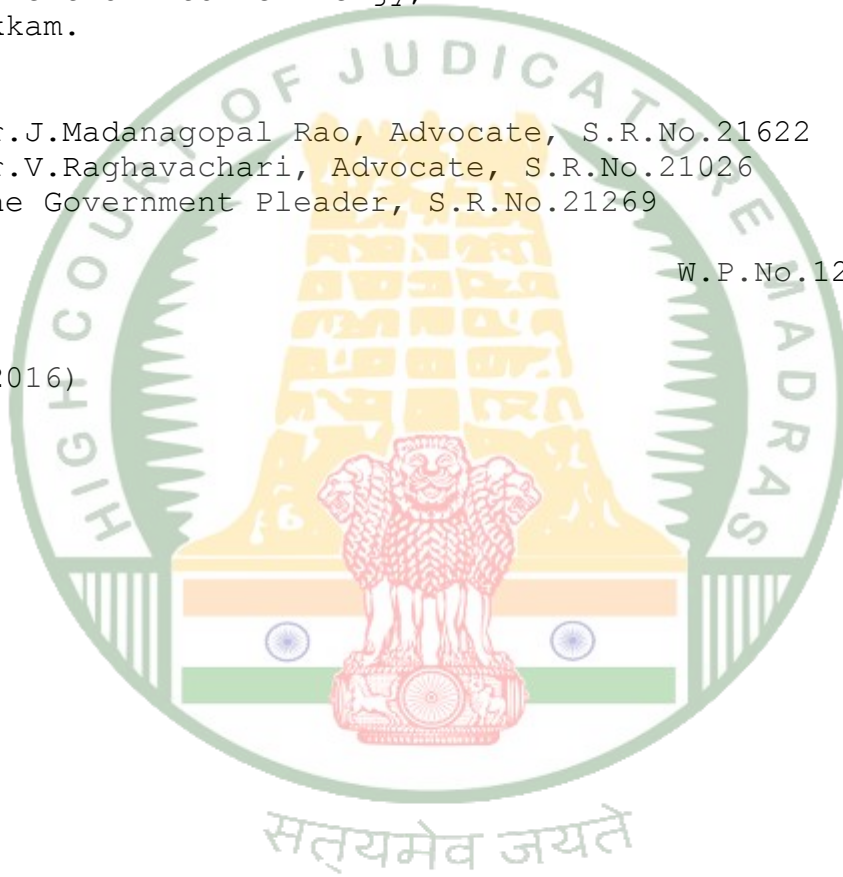
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4. The Director,
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Department of Atomic Energy,
Kalpakkam.

+1cc to Mr.J.Madanagopal Rao, Advocate, S.R.No.21622
+1cc to Mr.V.Raghavachari, Advocate, S.R.No.21026
+1cc to the Government Pleader, S.R.No.21269

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VD(CO)
CA(06/05/2016)



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