

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2016

CORAM:

THE HONOURABLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HONOURABLE MR.JUSTICE M.VENUGOPAL

W.P.No.35278 of 2015
and
M.P.Nos.1 and 2 of 2015

C.Dhanapal

.. Petitioner

Vs.

1.The District Collector,
Namakkal District.

2.The Joint Commissioner,
Hindu Charitable and Endowment Board,
Salem.

3.The Tahsildar,
Tiruchengode.

4.The President,
Padaveedu Panchayat,
Namakkal District.

..Respondents

The writ petition is preferred under Article 226 of the Constitution of India, praying for the issue of a writ of mandamus, directing the respondents 1 to 3 to remove the encroachers of the land in R.S.No.114/2 of Padaveedu Village, Tiruchengode Taluk, Namakkal District, belonging to Sri Kariakali Amman and Athanur Amman temples by considering the petitioner's representation dated 23.9.2015.

For Petitioner : Mr.J.Titus
for Mr.I.C.Vasudevan

For Respondents :Mr.P.S.Sivashanmugasundaram,
Spl.G.P for RR1, 3 and 4
Mr.P.Sanjay Gandhi, AGP for R-2

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ORDER

(Order of the Court was made by SATISH K. AGNIHOTRI, J.)

The petitioner, stated to be a resident of Nathamedu village, Namakkal District, has come up with this petition, seeking for a direction to respondents 1 to 3 to remove the alleged encroachment on the land in R.S.No.114/2 of Padaveedu Village, Tiruchengode Taluk, Namakkal District, belonging to Sri Kariakali Amman and Athanur Amman temples.

2 According to the petitioner, 76 persons have encroached the temple lands by putting up shops and houses without any permission or sanction. It is further contended that a representation was made to respondents 1 and 2 on 23rd September, 2015. Finding no response, the petitioner has come up with this petition for the aforestated relief.

3 In response to the notice, the third respondent Tahsildar has submitted an affidavit dated 14th December, 2015, stating that the land in question, on which shops and houses were constructed, is classified as patta dry land and not as Poramboke. The said shops and houses are under the supervision and control of the second respondent. Thus the shops and houses cannot be removed on account of treating them as encroachment.

4 The second respondent - Joint Commissioner, Hindu Religious and Charitable Endowments Department, Salem has also filed a status report dated 15th December, 2015, stating as under:

"5.It is submitted that the Temples being administered by one V.Palanisamy as person in Management. An extent of Acres 7.73 cents of dry punja lands and an extent of 34,880 Sq.Ft. of site for commercial purpose covered by Survey No.114/2A, under Patta No.903 belongs to the said Temples. As per the Demand, Collection & Balance Register maintained in the Temple, there are 24 Lease Holders for the punja lands. A sum of Rs.6,000/- is derived from the lease holder land for Fasli 1424. It is learnt that the said lease holders are in continuous lease over a period of 30 years. It is learnt that the lands are leased out otherwise than by public auction.

6.So far as 34,880 Sq.Ft. site for commercial use as per the Temple records the said property has been leased out to 24 persons at the extent of 1,453 Sq.Ft. each. While so, on enquiry with the person in management of the Temple and also with

the occupant of the Land it is found that there is no enforcement caused in the Temple property and due to personal grudge or animosity over the administration of the Temple and the lease holders such a Writ has been filed before this Hon'ble Court alleging there are encroachment."

5 On perusal and examination of the aforestated affidavits, it is evident that the shops and houses are not encroachments as alleged, but were constructed under the supervision and control of the temple management. It is not the case of encroachment as pleaded by the petitioner. Thus, no direction, as sought for by the petitioner, is required.

6 Resultantly, the writ petition stands dismissed. No costs. In view of the dismissal of the writ petition, there is no need to pass any order in M.P.Nos.1 and 2 of 2015, which are filed seeking for impleadment. Thus, the said miscellaneous petitions are dismissed.

vvk

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The District Collector,
Namakkal District.

2.The Joint Commissioner,
Hindu Charitable and Endowment Board,
Salem.

3.The Tahsildar, Tiruchengode.

4.The President, Padaveedu Panchayat,
Namakkal District.

+ 1 cc to Mr.I.C.Vasudevan, Advocate SR 10823

+ 2 ccs to the Govt.Pleader SR 10762 & 11048

+ 1 cc to M/s.S.Sethuraman, Advocate Sr 10647 (5/4/16)

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prk11/3

W.P.No.35278 of 2015