

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.4265 of 2016

M/s.Abaya Anjaneyar Koil,
represented by its Trustees
R.Karunanithi, S/o Rajagopal,
Periyakarakadu,
Pillaiyar Koil Street,
Capper Kavari, Cuddalore Post. . Petitioner

Vs.

1. The District Revenue Officer,
Cuddalore.
2. The Revenue Tahsildhar, Cuddalore.
3. G.Subramanian
4. G.Vasudevan
5. G.Kaliyaperumal
6. G.Jagadeesan
7. G.Vanasekaran .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents 1 and 2 to conduct an enquiry and proceed in accordance with law in the light of the proceedings of the first respondent in Na.Ka.No.A7/4053/14, dated 28.10.2014 and issue patta in favour of the petitioner-Temple in respect of S.Nos.100/1, 100/2, 100/3 Periyakaraikadu Village, Sedapalayam Panchayat, Cuddalore Taluk and District, considering the representation of the petitioner, dated 05.09.2014.

For Petitioner : Ms.S.Vijayalakshmi

For Respondents: Mr.P.Sanjay Gandhi, Addl.G.P. for RR-1 & 2

ORDER

The Writ Petition is filed for issuance of a Writ of Mandamus to direct the respondents 1 and 2 to conduct an enquiry and proceed in accordance with law in the light of the proceedings of the first respondent in Na.Ka.No.A7/4053/14, dated 28.10.2014 and issue patta in favour of the petitioner-

Temple in respect of S.Nos.100/1, 100/2, 100/3 Periyakaraikadu Village, Sedapalayam Panchayat, Cuddalore Taluk and District, by considering the representation of the petitioner, dated 05.09.2014.

2. The Trustee of the petitioner-Temple has filed the affidavit stating that the petitioner-Temple (Arulmighu Abaya Anjaneyar Temple) is in existence for several years in S.No.100/3, Periyakaraikadu Village, Sedapalayam Panchayat, Cuddalore Taluk, with measurement of 54 cents and it is in Government poramboke land. The Kumbabhishekam for the Temple was performed in 2006. While so, the villagers filed a suit in O.S.No.581 of 2008 on the file of the Principal District Munsif Court, Cuddalore, against Tahsildar, Cuddalore, the District Collector, Cuddalore and five others, for declaring that S.No.100/3 belongs to the Temple and for mandatory injunction directing the Tahsildar, Cuddalore to issue patta in favour of the Temple and for permanent injunction against the defendants from preventing the public from worshipping the Temple and also for mandatory injunction directing the Tahsildar, Cuddalore to cancel the patta, if any granted in favour of the defendants 1 to 5. The District Munsif Court, Cuddalore, by judgment and decree, dated 18.10.2011, while granting the relief of permanent injunction against the defendants from preventing the public from worshipping in the Temple, negatived the relief of declaration and mandatory injunction. The trial Court also observed that the property involved being a poramboke land belonging to Government, until the Government assigns it and grants patta to any private persons, the relief of mandatory injunction cannot be granted and it was also directed to approach the competent authority for the relief of obtaining patta in favour of the Temple and for the relief of mandatory injunction to cancel the patta issued in the name of the defendants 1 to 5, who are the respondents 3 to 7 herein. It is the further case of the petitioner that pursuant to the said judgment, several representations were sent to the respondent-authorities for issuance of patta in favour of the Temple and to cancel the patta issued in favour of the respondents 3 to 7 in respect of S.Nos.100/1, 100/2, 100/3 of Periyakaraikadu Village, Sedapalayam Panchayat, Cuddalore Taluk and District and the final representation was sent on 05.09.2014 to the first respondent, on receipt of which, the first respondent instructed the second respondent, by proceedings in Na.Ka.No.A7/4053/14, dated 28.10.2014, by enclosing a copy of the petitioner's representation, dated 05.09.2014 and directed the second respondent to initiate appropriate enquiry upon the petitioner's representation, and to send a report to the first respondent's office in respect of cancellation of the patta. The copy of the said proceedings was also marked to the petitioner. Till date, there has been no further course of action and no enquiry was conducted. Hence, the petitioner has filed this Writ Petition for the above relief.

3. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader, who took notice for the first and second respondents.

4. Considering the above facts and circumstances of the case, the petitioner is directed to give a fresh representation along with a copy of this order, to the second respondent, within a period of two weeks from the date of receipt of a copy of this order and on such representation being preferred, the second respondent shall dispose of the same and pass appropriate orders, after affording an opportunity of hearing to the Trustees of the petitioner-Temple and necessary parties, including the respondents 3 to 7 herein and decide the issue purely on merits and in accordance with law. It is made clear that this Court has not expressed any opinion with regard to the merits of the case. Appropriate orders shall be passed by the second respondent within a period of four weeks from the date of receipt of such representation from the petitioner.

5. With the above observations and directions, the Writ Petition is disposed of. No costs.

Sd/-

Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

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Copy to

1. The District Revenue Officer,
Cuddalore.

2. The Revenue Tahsildhar, Cuddalore.

1 cc to Mr.D. Rajagopal, Advocate, Sr. 7563
1 cc to Government Pleader, Sr. 7550

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