



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition (MD) No.3118 of 2015

and

WMP(MD)No.758 of 2016

Ayothipatti Arulmigu Ayyanar Thirukovil
Paramparai Arakkattalai,
rep. By Executive Member,
K.Mahendhiran,
Ayothipatti, Sengipatti Panchayat,
Budalur Taluk,
Thanjavur District.

... Petitioner

Vs.

1.The District Collector,
Thanjavur,
Thanjavur District.

2.The Revenue Divisional officer,
Thanjavur,
Thanjavur District.

3.The Tahsildar,
Budalur Taluk Office,
Thanjavur District.

4.The Assistant Director of
Rural Development Officer,
Panakal Building,
Thanjavur District.

5.The President,
Sengipatti Village Panchayat,
Sengipatti, Budalur Taluk,
Thanjavur District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus forbearing the respondents to construct the government go-down and Fair Price Shop in the temple land in survey No.189/90



to an extent 95.52 Ares situated at Ayothipatti Village, Sengipatti Panchayat, Budalur Taluk, Thanjavur District by considering the petitioner's representations dated 21.02.2015.

WEB COPY

For Petitioner

: Mr.S.Suresh Kumar

For Respondents

: Mr.J.Gunaseelan Muthaiah
Government Advocate

ORDER

One Mahendhiran, claiming to be the Executive Member of the petitioner Association filed this writ petition seeking a direction forbearing the respondents from constructing the government go-down and Fair Price Shop in the temple land in survey No.189/90 to an extent 95.52 Ares situated at Ayothipatti Village, Sengipatti Panchayat, Budalur Taluk, Thanjavur District.

2.According to the petitioner, the above land was allotted to the Ayyanar Koil in the 16th century by the Naicker Kings exclusive for the Scheduled Castes and Scheduled Tribes Community and neighbouring villages. The above said temple was administered by Hindu Sambavar community peoples for more than 360 years. The above land belongs to the temple and the petitioner community were in possession and enjoyment of the land without any disturbance from anybody and the said land was also mentioned as 'Temple Land' in the revenue records, extracts of Adangal and FMB sketch. The petitioner association decided to construct a permanent building for the utility purpose of the temple. Now, the fifth respondent is taking steps to construct a warehouse blocking the pathway to the temple. In the above circumstances, they have made representations to the respondents to stop the construction. But the respondents did not consider the request and started constructing the warehouse unilaterally and illegally. Hence, the petitioner has filed the present writ petition.

3.According to the petitioner, the act of the respondents is also violating the specific provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. During the pendency of the writ petition, the petitioner Mahendhiran himself appeared before this Court and filed an affidavit stating that the land in question is 'sarkar poromboke land and the Panchayat has every right to put up any construction and without knowing the same, he has filed W.P.(MD).No.3118 of 2015 (the present writ petition). Hence, he wanted to withdraw the writ petition. Subsequently, one Denish, claimed to be one of the trustees of the petitioner's Association filed a miscellaneous petition, to substitute himself as the petitioner, in stead of the above Mahendhiran, in W.M.P.(MD).No.758 of 2016. The third respondent filed a counter affidavit opposing the above impleadment.



4. In the main writ petition, the third respondent filed a counter affidavit stating that the land is classified as Government Poromboke land and the temple is situated in the above land. There is no documentary evidence produced by the petitioner to substantiate his claim. In the above said land, so many Government buildings were constructed such as School, Water tank, TV Room, Palwadi etc., There is no necessity to consult the petitioner before constructing the godown, as the land does not belong to him.

5. Today, the fifth respondent filed a counter affidavit stating that already, the construction work was over, awaiting for a formal opening ceremony and the warehouse has been constructed in view of the welfare of the public in the Government poromboke land.

6. I have carefully considered the submissions made on either side and perused the documents carefully.

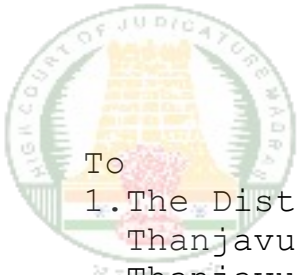
7. So far as the petition for substitution is concerned, the petitioner filed an affidavit withdrawing the writ petition. Now, the present application W.M.P.(MD).No.758 of 2016 has been filed by the Executive Member claiming to continue the writ petition, which is also opposed by the respondent, without going into that, this Court is deciding the case on merits.

8. From the perusal of records, it is clearly established that the above said land is a sarkar poromboke land and the Ayyanar temple is situated in the said land. Merely because the temple is situated in the sarkar poromboke, the said land cannot be considered as the temple land. Apart from that, the petitioner is not substantiating his claim with any material that land belongs to the temple and the building being constructed for a public purpose, the petitioner cannot oppose it without any right whatsoever.

9. In the above circumstances, this writ petition is devoid of merits and the same is liable to be dismissed. Accordingly, the same is dismissed. Consequently, connected W.M.P(MD).No.758 of 2016 is also dismissed. There shall be no order as to costs.

Sd/
Assistant Registrar (CO)

/True Copy/



To

1.The District Collector,
Thanjavur,
Thanjavur District.

2.The Revenue Divisional officer,
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3.The Tahsildar,
Budalur Taluk Office,
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Rural Development Officer,
Panakal Building,
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5.The President,
Sengipatti Village Panchayat,
Sengipatti, Budalur Taluk,
Thanjavur District.

+1 cc to MR.S.SURESH KUMAR, Advocate Sr.NO.56297

+1 cc to M/S.J.GUNASEELAN MUTHIAH, Advocate Sr.No.56213

+1 cc to Special Government Pleader Sr.NO.56635

W.P (MD) No.3118 of 2015
and
WMP (MD) No.758 of 2016
27.09.2016

SMA/CK/SAR-III/06/10/2016 :4P/9C