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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

AND

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.[MD].No.21315 of 2016

and

W.M.P. (MD)No.15248 of 2016

Madurai Town Hall Road
Perumal Teppakulam Annaithu
Siruviyabarigal Nalasangam,
Through its Secretary
R.Manivanan

: Petitioner

Vs.

- 1.The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
Madurai-625 001.
- 2.The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Department,
Madurai-625 001.
- 3.The Assistant Commissioner/
Executive Officer,
Arulmigu Koodal Alagar Thirukoil,
Madurai-625 001.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the first respondent to consider the Interlocutory Application filed in Na.Ka.No.7145/2015/E1 pending on the file of the first respondent Sangam and supply the documents within a time limit to be fixed by this Court and follow the provisions in Section 80 of the HRCE Act and the principles of natural justice and pass appropriate orders on the pending enquiry u/s.80 of the HRCE Act on the file of the first respondent and by fixing the time limit.

For Petitioner	: Mr.M.Vallinayagam, Senior Counsel, For M/s. Victory Associates
For Respondents 1&2	: Mr.M.Govindan, Special Government Pleader
For Respondent No.3	: Mr.S.Manohar

**O R D E R**

[Order of the Court was made by **S.NAGAMUTHU, J.**]

The petitioner claims to be an Association known as "Madurai Town Hall Road Perumal Teppakulam Annaithu Siruviyabarigal Nalasangam". The said Association is represented by its Secretary. According to the petitioner, the members of the said Association, numbering about 100, are running small shops on the small sites of various sizes between 8'x6' feet and 10'x8' feet rented out by the third respondent-Koodal Alagar Perumal Kovil, Madurai, on the western, northern and eastern side of Perumal Teppakulam situated in T.S.No.196, Town Hall Road, Madurai and doing business of sales and service of small electronic goods for more than 66 years. The petitioner Association have further stated that on the southern side of Perumal Teppakulam for more than 60 years, 87 shops established by the Madurai Corporation are functioning. It is further alleged in the affidavit filed by the petitioner that the members of the petitioner Association were initially permitted by the temple authorities to run business in the bunk stall at the vacant sites adjacent to and outside of the parapet wall of Teppakulam on the other three sides viz., east, north and west and later, the vacant sites were divided into small sites measuring between 8'x6' feet and 14'x10' feet and leased out to about 108 persons duly fixing rent at square feet rate and for that, appropriate agreements have also been executed by the lessees of the temple. It is further alleged that the first respondent has initiated proceedings against them under Section 80 of the Tamil Nadu Hindu Religious and Charitable Endowments Act (hereinafter referred to as 'the HR&CE Act') for terminating the lease. He has also initiated proceedings under Section 78 of the HR&CE Act for removal of the encroachments made on the land.

2. It is brought to our notice that based on a news report in Indian Express English Daily dated 28.01.2011, a *Suo Motu* Public Interest Litigation was initiated by the Registrar (Judicial) of Madurai Bench of Madras High Court, seeking a direction to the authorities to take immediate efforts for the construction of adequate public toilets and garbage dumps and to provide and maintain separate rain water pipes and sewage water pipelines on a fool-proof manner in the area surrounding Koodal Azhagar Perumal Teppakulam, Town Hall Road, Madurai, so as to avoid all round pollution and also to ensure safe and hygienic health condition of the visitors to the Perumal Teppakulam and for directing the first respondent therein to notify the Koodal Azhagar Perumal Teppakulam as a protected area under Tamil Nadu Ancient and Historical Monuments and Archaeological Sites and Remains Act, 1966. In that *suo motu* litigation, an interim order was passed on 24.10.2016, by this Bench, after affording



3. This order is a direction to dispose of the proceedings initiated against the members of the petitioner Association under Section 80 of the HR&CE Act and also to dispose of the proceedings initiated for removal of encroachments.

5. In the meanwhile, the petitioner Association filed the present Writ Petition on 04.11.2016 seeking a direction to the first respondent, viz., the Joint Commissioner, Hindu Religious and Charitable Endowments Department, to consider the interlocutory application filed in Na.Ka.No.7145/2015/E1 pending on the file of the first respondent and for a further direction to supply the documents, within the time limit to be fixed by this Court and follow the provisions in Section 80 of the HR&CE Act and the principles of natural justice. Seeking the above reliefs, the petitioner Association have not filed any Miscellaneous Petition in the pending Writ Petition in W.P.(MD) No.1451 of 2011, wherein the petitioner Association is the sixth respondent. Instead, the petitioner Association have chosen the ingenious way of filing the present Writ Petition before the learned Single Judge seeking the above reliefs.

6. When the matter came up before the learned Single Judge on 07.11.2016, the learned Single Judge had directed the Registry to place this Writ Petition before the Division Bench, after getting necessary orders from the Hon'ble Administrative Judge, in view of the earlier direction issued by this Court in W.P.(MD)No.1451 of 2011. That is how, this Writ Petition has been listed before this Bench.

7. We have heard Mr.M.Vallinayagam, learned Senior Counsel appearing for the petitioner Association, Mr.M.Govindan, learned



Special Government Pleader, entering appearance on behalf of the first and second respondents and Mr.S.Manohar, learned counsel, entering appearance on behalf of the third respondent. We have also perused the records carefully.

8. Though the prayer made in the Writ Petition appears to be for a simple relief, it is not so. A perusal of the interlocutory application filed by the members of the petitioner Association in Na.Ka.No.7145/2015/E1 would go to show that the members of the petitioner Association have asked for as many as 26 documents. In our considered view, none of the document referred to in the petition, for which, copies were sought for, would be useful in any manner for deciding the issue pending before the Joint Commissioner.

9. So far as the first document is concerned, it is title deed of Teppakulam at T.S.No.196, Ward No.5, Survey Block No.5 at Town Hall Road in the name of Arulmigu Koodalalagar Thirukoil, Madurai. This is the land over which the Teppakulam tank is situated. The petitioner Association, on the one hand, have admitted that the land belongs to the temple and they are only lessees. But, quite contrary to the same, they seek a copy of this document, in an attempt to question the very title of the temple. When we made a specific query to the learned Senior Counsel as to why a copy of the first document is asked for, he submitted that the temple has got no title for the land in question. This reply by the learned Senior Counsel would go a long way to show that the purpose of filing this Writ Petition is not genuine, but, only with a view to drag on the proceedings before the Joint Commissioner. At any rate, if a copy of the title deed, which is a registered document, is required, it is for the petitioner Association to apply to the Sub-Registrar concerned, to get a registration copy of the said document.

10. The second document sought for is original allotment orders of the vacant sites on the bunds (East, North and South) to the petitioners therein with terms and conditions of allotment. The members of the petitioner Association claim that they are allottees and, therefore, they must be in possession of those allotment orders. When there is no dispute regarding the allotment and also the terms and conditions, we are unable to understand as to why a copy of this document is also asked for.

11. The document No.3 is relating to subsequent allotments of the vacant sites to petitioners therein with terms and conditions and the fourth document is also the same. For the reasons, which we have stated for document No.2, these two requests also are not tenable.



12. Similarly, the document No.5 is relating to lease transfer applications given by the tenants and receipt issued for collection of donations for name transfer. We do not understand as to how this document will be helpful in any manner for deciding the issue, which is pending before the Joint Commissioner. The members of the petitioner Association have also asked for several other documents, such as various reports, eviction notice, etc. In our considered view, no such document would be of any use or relevance for deciding the issue.

13. The document No.22 sought for by the petitioners therein is a copy of the judgment of the Hon'ble High Court in the case filed by the second respondent against Madurai Corporation against letting of drainage and sewage water through the rainwater pipes into the Teppakulam. The petitioners therein have not given the details of the case and the date of judgment and parties thereon. If really there was any judgment rendered by this Court in any case before this Court, it is always open for them to apply for copies of the same and get it.

14. The document No.23 asked for reads as follows:

"Foundation stone laid on 13.04.1986 by the former Chief Minister Mr.M.G.Ramachandran for construction of a multi storied shopping complex on a part of Teppakulam."

It is not understandable as to how the petitioners therein could ask for a copy of the foundation stone laid.

15. The document No.26 is relating to medical reports on the health hazard caused to the complainant due to the drainage water or wastes dumped by the petitioners. The petitioners therein have not given any detail regarding such documents. Thus, though the members of the petitioner Association have given the list of 26 documents, they have not either given the details or as to how these documents would be relevant for them to place their case before the Joint Commissioner in the pending proceedings. They have also not explained to the Court as to why they did not make application before the authority concerned to get copies of the documents other than the HR&CE Authorities before whom the original documents are lying.

16. It is also brought to our notice that earlier a Writ Petition was filed by the members of the petitioner Association in W.P.(MD)No.2263 of 2014, before a Division Bench, challenging the notice issued by the Assistant Commissioner to vacate the premises. That was quashed, however, giving liberty to the authorities to proceed in the matter, in accordance with law and to resume possession of the property in question. That is what



the action which is now under progress at the end of the Joint Commissioner.

17. From the above narration of facts, it is crystal clear that the members of the petitioner Association have filed interlocutory application before the Joint Commissioner asking for copies of original documents not for any genuine purpose, but only with a view to drag on the proceedings. The very fact that though the petitioner Association happen to be a respondent in W.P.(MD)No.1451 of 2011, wherein, this Court issued a direction on 24.10.2016 and though he was a party to the order, he has not chosen to file any interlocutory application before this Court, instead, he has filed a Writ Petition in ingenious way before the learned Single Judge. This would go to show that the attempt of the members of the petitioner Association is only to drag on the proceedings and to remain in possession as long as possible. It is for the members of the petitioner Association to appear before the Joint Commissioner and to establish their right, if any. In such view of the matter, we are unable to issue a direction to the Joint Commissioner to consider the interlocutory application in Na.Ka.No.7145/2015/E1, as we find that the request itself is untenable. The Writ Petition is, therefore, dismissed. No costs. Consequently, the connected miscellaneous petitio is also dismissed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

- 1.The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
Madurai-625 001.
- 2.The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Department,
Madurai-625 001.
- 3.The Assistant Commissioner/
Executive Officer,
Arulmigu Koodal Alagar Thirukoil,
Madurai-625 001.

+1cc to M/S.Victory Associates in SR NO.66543

+1cc to the Spl.Govt.Pleader in SR No.67055

+1cc to Mr.S.Manohar, Advocate in SR No.67258

Order made in
W.P. [MD].No.21315 of 2016
Dated: 08.11.2016