

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.08.2017

CORAM:

THE HON'BLE MR.JUSTICE S. VAIDYANATHAN

W.P.No.31878 of 2003

Arul Migu Dhandayuthapaniswamy Temple,
Palani, Rep. By its,
Joint Commissioner/Executive Officer. ..Petitioner

Vs.

1. The District Collector,
Dindigul District, Dindigul.
2. The District Revenue Officer, Dindigul.
3. The Tahsildar,
Palani Taluk, Palani.
4. The Tamil Nadu Tourism Development,
Corporation, rep. by
Regional Manager,
Opposite to Periyar Bus Stand, Madurai-1. ..Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuing a Writ of Certiorarified mandamus or any other writ, order or direction in the nature of writ, to call for the entire records in connection with the impugned demand of the 3rd respondent made in his proceedings Na.Ka.No.3124/2000/CI dated 18.02.2003, and the consequential proceedings of the 2nd respondent made in his proceedings Na.Ka.No.14667/2000/DI dated 26.08.2003, and quash the same and consequently forbear the respondents 1 to 3 from in any way make any demand on the basis of audit objection.

For Petitioner : Mr. Vekatachalapathy
Senior Counsel for M/s. M.Sriram.

For Respondents : Mr. Akhil Akbar Ali
Government Advocate for RR1 to 3
M/s. T.Seenivasan and R.SathyaSeelan
for-R4

O R D E R

The petitioner has come forward with this Writ Petition challenging the order dated 26.08.2003 passed by the second respondent/District Revenue Officer, wherein the interim order that has already been granted, has been vacated. Originally, the third respondent/Tahsildar passed an order on 18.02.2003, holding that the Government land has been allotted to the Temple and that in contravention of the lease agreement, the petitioner-Temple had handed over a part of the land for tourism development and hence, as action of the petitioner-Temple is contrary to the lease agreement, the Tahsildar has directed that the amount identified in the audit objection to the tune of Rs.15,54,000/- and has got to be paid by the petitioner to the Government, and that inspite of the several requests to the petitioner by the authorities, no steps have been taken by the petitioner to pay the amount. Since there is a violation of the lease agreement, it has been decided to cancel the lease deed and that the land that has been allotted by the Temple to the fourth respondent, needs to be transferred in the name of the Government and action accordingly has got to be initiated. Aggrieved by the said order of the Tahsildar dated 18.02.2003 the petitioner has preferred an appeal before the DRO, and the DRO who has initially passed interim order, has vacated the interim order on 26.08.2003 directing to pay the said amount.

2. The learned Senior Counsel for the petitioner contended that the land belongs to the Temple and not the Government land that has been given to the Temple. He further submitted that the audit objection cannot be a ground to initiate proceedings and that even though the petitioner has not filed the proceedings regarding the joint inspection, wherein, the Tamil Nadu Tourism Development Corporation, the fourth respondent herein, has stated that they are not running a business in the land allotted to them and that they have given only to the pilgrims and that they are running at a loss.

3. Mr.Venkatachalapathy, learned Senior Counsel appearing for the petitioner further submitted that as the proceedings of the Tahsildar and the DRO are based on the audit objection, the entire proceedings have got to be set aside and that it is open for the authorities to decide the issue as fresh, after hearing the parties and taking note of the oral and documentary evidence, if any submitted before the authorities.

4. Per contra, the learned Government Advocate appearing for the respondents 1 to 3 and the learned counsel for the fourth respondent submitted that against the final order passed by the Tahsildar, an appeal has been preferred and that the interim order granted has been vacated by the DRO on

26.08.2003, and the appeal preferred by the writ petitioner is pending before the Appellate Authority/DRO.

5. Whether the land belongs to the Government or to the Temple is a question of fact, which has got to be decided by the authorities and since the matter is pending before the Appellate Authority (DRO) and that the petitioner has preferred the present writ petition only against the interim order passed by the DRO, without venturing into the merits of the matter and by accepting the contention of the learned counsel for all the respondents that only against the interim order, the present writ petition has been filed and that the proceedings are pending before the appellate authority/DRO, this Court is not inclined to grant the relief sought for by the petitioner, more so, against the order of the Tahsildar, the petitioner has preferred an appeal. As the matter is subjudice, and that the petitioner had the benefit of interim order of this Court pending this Writ Petition, this Court directs the Appellate Authority, namely the DRO to decide the matter within the period of two months from the date of receipt of a copy of this order, without adjourning the matter beyond two working days at any point of time from the date of commencement of final hearing of the appeal and pass a reasoned order taking into account any documents or written submissions/evidence and oral evidence given by the parties, and after hearing the parties. If the petitioner fails to appear before the appellate authority/DRO, the same may be recorded and orders shall be passed based on the available records and that the petitioner will not be allowed to take a stand that he was not given any opportunity of being heard. Till the issue is decided by the Appellate Authority/DRO within the time stipulated supra, the interim order granted by this Court shall continue or till 01.12.2017 whichever is earlier.

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

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Dindigul District,
Dindigul.

2. The District Revenue Officer,
Dindigul.
3. The Tahsildar,
Palani Taluk, Palani.
4. The Regional Manager,
Tamil Nadu Tourism Development Corporation,
Opposite to Periyar Bus Stand, Madurai-1.
5. The District Revenue Officer,
Dindigul.

+1cc to Mr.M.Sairam, Advocate, S.R.No.60633
+1cc to Mr.T.Seenivasan, Advocate, S.R.No.61144
+1cc to the Government Pleader, S.R.No.60416

W.P.No.31878 of 2003

CP(CO)
GN(01/09/2017)



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