



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.09.2017

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P. (MD) No. 14415 of 2017

and

W.M.P (MD) No. 11292 of 2017

Asokan

... Petitioner

Vs.

1. The Assistant Commissioner,
Tamil Nadu Hindu Religious
and Charitable Endowment Department,
Virudhunagar.

2. The Commissioner,
Aruppukottai Municipality,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the 1st respondent from interfering with petitioner's possession and enjoyment of the property comprised in Door No. 367, Madurai Road, Aruppukottai as its absolute owner contending that the same belongs to Arulmigu Muthumalai Vinayagar Temple, Aruppukottai without any valid records, thereby exceeding the powers conferred under the Tamil Nadu Hindu Religious and Charitable Endowments Act 22/59.

For Petitioner : Mr. R. G. Shankar Ganesh
For Respondents : Mr. J. Gunaseelan Muthiah,
Government Advocate for R.1
Mr. N. Dilip Kumar for R.2

ORDER

This Writ Petition has been filed seeking a Writ of Mandamus forbearing the 1st respondent from interfering with the petitioner's possession and enjoyment of the property comprised in Door No. 367, Madurai Road, Aruppukottai.

2. The case of the petitioner is that the property in question belongs to his grandfather and after the demise of his grandfather and his father, the petitioner and others are enjoying the possession. When the petitioner's father owned the property, a lease agreement was entered into between him and a third party and the said third party, while paying property tax, inadvertently paid the same in the name of Arulmigu Muthumalai Vinayagar Temple, for which the petitioner is one of the trustees. In order to correct the mistake crept-in, the petitioner submitted an application before the second respondent on 07.01.2015, who in



turn instructed the trustee of the temple to produce necessary material documents in respect of the property followed by a reminder letter dated 27.02.2015 to the temple trustee. While so, by order dated 07.07.2017, the first respondent directed the authorities concerned to file a petition before the second respondent, stating that the property belongs to the temple and the same was illegally transferred to the petitioner's father's name, by suppressing the facts. Aggrieved by this, the petitioner is before this Court.

3. The learned Government Advocate appearing for the first respondent filed a detailed counter affidavit contending that the property in question belongs to the temple and he further submitted that on 09.09.1958, a deed was jointly executed by the petitioner's father and one Singaravel Nadar, wherein, they had endowed the following properties for performing Daily poojas in the said temple:

"(i) A vacant site at an extent of 14 ½ feet comprised in Door No.9.23.43, Ward D, Block No.6, T.S.No.11 and the temple constructed in the above site and a Neem tree

(ii) A vacant site at an extent of 36 ½ feet comprised in Door No.9.22.42, Ward D, Block No.6, T.S.No.11 and the mandapam constructed in the above site and a Tamarind tree

(iii) A vacant site at an extent of 0.0014.5 Hectares comprised in Door No.367, Ward D, Block No.6, Old T.S.No.47 and New Survey No.167 with Mud Wall and thatched shop"

4. Heard the learned Counsel appearing for the petitioner, the learned Government Advocate appearing for R1 and the learned Counsel appearing for R2.

5. Considering the facts and circumstances of the case and as the dispute pertains to the title over the property, this Court, without going in to the merits of the case, directs the first respondent to file a representation along with a copy of this order, before the second respondent forthwith and on receipt of the same, the second respondent is directed to conduct an enquiry and pass appropriate orders, after affording due opportunity of hearing to the petitioner as well as the first respondent, within a period of six weeks thereafter.

6. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(P&A)



To

1. The Assistant Commissioner,
Tamil Nadu Hindu Religious
and Charitable Endowment Department,
Virudhunagar.

2. The Commissioner,
Aruppukottai Municipality,
Virudhunagar District.

+1cc to Mr.R.G.Shankar Ganesh, Advocate Sr.No.79240

+1cc to Mr.N.Dilip Kumar, Advocate Sr.No.78969

+1cc to Spl.Government Pleader Sr.No.79333

GK

VB/SV/MMS/SAR2/28/09/2017/3P/6C

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