



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.06.2017

CORAM:

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**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN**

W.A.(MD)No.553 of 2013
and M.P.(MD) No.2 of 2013

S.S.Seenivasa Raja,
Trustee, Sree Kothadaramar Swamy Kovil,
Rajapalayam,
Virudhunagar District.

: Appellant/5th Respondent

Vs.

1.Sundaramoorthy Thevar,
S/o.Shanmugavel Thevar,
President, Hindu Maravar Pothusabai,
Andalathamman Kovil Street,
Rajapalayam,
Virudhunagar District.

: 1st Respondent/Petitioner

2.The District Collector,
Virudhunagar District,
Virudhunagar.

3.The District Revenue Officer,
Virudhunagar District,
Virudhunagar.

4.The Revenue Divisional Officer,
Sivakasi, Virudhunagar District.

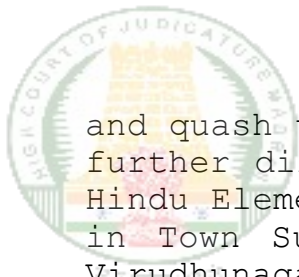
5.The Tahsildar,
Rajapalayam,
Virudhunagar District.

: Respondents 2 to 5/
Respondents 1 to 4

PRAYER: Writ Appeal is filed under clause 15 of the Letters Patent, against the order dated 29.10.2012 passed by the learned Single in W.P.(MD) No.11884 of 2011.

Prayer in WP(MD). 11884/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in his proceedings in Na.Ka.B2/2993/2011 dated 10.05.2011



and quash the same as illegal and violation of Principles of Law and further direct the respondents to restore the name of Kothandaramar Hindu Elementary School present Management Andalathaman Kovil Street in Town Survey No.21, Block 8, Ward E, Rajapalayam Municipality, Virudhunagar District within the stipulated period.

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For Appellant : Mr.A.Sivaji
For 1st Respondent : Mr.G.Marimuthu
For Respondents 2 to 5 : Mr.V.Muruganantham
Additional Government Pleader

JUDGMENT

[Judgment of the Court was made by T.S.SIVAGNANAM, J.]

Heard Mr.A.Sivaji, learned counsel appearing for the appellant, Mr.G.Marimuthu, learned counsel appearing for the 1st respondent and Mr.V.Muruganantham, learned Additional Government Pleader appearing for the respondents 2 to 5.

2.The appellant is the 5th respondent in the writ petition, namely, W.P.(MD) No.11884 of 2011 and aggrieved by the order passed in the said Writ Petition dated 29.10.2012, has filed the present writ appeal.

3.The said writ petition was filed by the first respondent herein, challenging the order passed by the District Collector dated 10.05.2011. The said Writ Petition was allowed and the District Collector was given liberty to proceed afresh in accordance with law. The grievance of the 1st respondent is that the District Collector has passed the order, without notice to the 1st respondent, by changing the entry in the Town Survey Register and entering the name of the appellant herein. According to the first respondent, from 1995, the Town Survey Register stands in their name. The appellant herein entered appearance through counsel in the writ petition. No counter affidavit has been filed by them and consequently after hearing the writ petitioner and the official respondents, who have filed their counter, the Writ Court allowed the writ petition and remanded the matter to the District Collector for fresh consideration. The appellant would state that the first respondent has semblance of right over the property and Town Survey stands in the name of the appellant Temple represented by its Management.

4.Considering the fact that the first respondent was not heard by the District Collector before passing the order, the Writ Court is justified in allowing and remanding the matter for fresh consideration. Fault lies with the appellant, as they did not appear before the Court and place the facts. In any event, the matter was remanded for fresh consideration. Thus, appellant cannot be said to be prejudiced by the direction issued by the Writ Court. However, to protect the rights of both the parties we are inclined to pass the



following order:

5. In the light of the fact that the Writ Court has allowed the writ petition and remanded the matter to the District Collector, Virudhunagar District for fresh consideration, We direct the District Collector, Virudhunagar District to issue notice to the appellant and the first respondent herein and hear the parties and peruse the documents filed by them as well as the official records and take a fresh decision in the matter by following the principles of natural justice and pass a reasoned order on merits and accordance with law within a period of 8 weeks from the date of receipt of a copy of this order. Till a decision is taken by the District Collector, as per the above direction, the entries which are existing as on today (15.06.2017) in the concerned Town Survey Register shall continue to remain and abide by the order to be passed by the District Collector.

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

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Virudhunagar District,
Virudhunagar.
2. The District Revenue Officer,
Virudhunagar District,
Virudhunagar.
3. The Revenue Divisional Officer,
Sivakasi, Virudhunagar District.
4. The Tahsildar,
Rajapalayam,
Virudhunagar District.

- + 1 CC TO Mr.A.SIVAJI, ADVOCATE IN SR No. 60671
- + 1 CC TO Mr.G.MARIMUTHU, ADVOCATE IN SR No. 60461
- + 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 60546

LS

TE/KP/SAR-I : 28/06/2017 : 3P/8C