



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBBIAH**
AND
THE HONOURABLE MRS.JUSTICE **J.NISHA BANU**

W.P. [MD].No.929 of 2011
and
M.P. (MD) Nos.1 to 3 of 2011

M.Athikan : Petitioner

Vs.

- 1.The District Collector,
Tuticorin District, Tuticorin.
 - 2.The Assistant Director of Panchayat,
Collectorate, Tuticorin District, Tuticorin.
 - 3.The Chairman,
The Selection Grade Town Panchayat,
Eral, Srivaikundam Taluk,
Tuticorin District.
 - 4.A.R.K.A.Karuthapandiya Nadar,
Paramparai Akthar,
Sri Chairman Arunasalaswamy Thirukoil, [Samathi Temple],
Eral 628 801, Srivaikuntam Taluk,
Tuticorin District.
- : Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the Chairman, the Selection Grade Town Panchayat, Eral, the third respondent herein relating to the resolution dated 27.12.2010, with regard to subject No.12 and resolution No.87 and quash the same and consequently direct the third respondent to take proper action on the representation of the petitioner in respect of illegal occupation of the land made by the fourth respondent which is situated in front of the said Samathi Temple by putting up temporary and permanent shops.

For Petitioner

: Mr.J.Ashok
For M/s.Jeyapaul Associates



For Respondent Nos.1 to 3 : Mr.VR.Shanmuganathan
Special Government Pleader

For Respondent No.4 : Mr.V.K.Vijayaragavan

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O R D E R

[Order of the Court was made by **R.SUBBIAH, J.**]

This Writ Petition has been filed seeking to call for the records of the Chairman, the Selection Grade Town Panchayat, Eral, the third respondent herein, relating to the resolution dated 27.12.2010, with regard to subject No.12 and resolution No.87 and quash the same and consequently direct the third respondent to take proper action on the representation of the petitioner in respect of illegal occupation of the land made by the fourth respondent, which is situated in front of the said Samathi Temple, by putting up temporary and permanent shops.

2. The case of the petitioner is that the fourth respondent herein is Paramparai Akthar of Sri Chairman Arunasala Swamy Temple, a Samathi, which is being administered as Temple. The mortal remains of the great grand father and his eldest brother, by name, Arunachala Nadar, had been buried in the said place. The said Arunachala Nadar had also served as Chairman of the third respondent. After his death, the Samathi was worshipped by the family members and subsequently by the general public. Taking advantage of the above, the said Samathi was converted as Thirukoil by the fourth respondent. The said Samathi is situated on the bank of Tamirabarani river at Eral, Srivaikuntam Taluk, Tuticorin District.

3. It is the further case of the petitioner that the fourth respondent being Parambarai Akthar of the Samathi Temple, had started to use the Government land, adjacent to the Samathi Temple, illegally, for the purpose of conducting temple festivals and several acres of the Government lands have been in his illegal occupation. He had also put up shops in the said land. On account of such illegal occupation of the land, he used to collect huge amount from shop keepers for putting up temporary shops in the land which belonged to the Government. Pointing out the above illegal activities of the fourth respondent, the petitioner submitted representations to various authorities, including the official respondents herein, seeking appropriate action against the fourth respondent. However, all of a sudden, the third respondent by his resolution dated 27.12.2010, rejected the genuine claim made by the petitioner which was given in the public interest. Therefore, the petitioner has come forward with the present Writ Petition, for the relief stated supra.



4. The fourth respondent filed a detailed counter affidavit denying the allegations made by the petitioner. According to him, the land in question is a private land and it does not belong to the Government, as it is projected by the petitioner. It is stated in the counter affidavit that the patta stands in the name of Arunachalasamy Thirukoil and Parambarai Akthar. During festival seasons, viz., Thai Ammavasai and Aadi Ammavasai, temporary shops will be put up in the private land and the same will be removed, after the festival is over. It is further stated that the fourth respondent is not at all in the occupation of the Government land. Thus, he sought for the dismissal of the Writ Petition.

5. We have considered the above submissions and keeping in mind the said submissions made on either side, we have carefully gone through the materials available on record.

6. In our considered view, this Court cannot conduct a roving enquiry into the allegations made by the petitioner. Therefore, the prayer sought for by the petitioner cannot be entertained. However, if the petitioner has any grievance, he is at liberty to make a fresh representation putting forth all his contentions, before the first respondent and on receipt of such representation, the first respondent is directed to consider the same and pass appropriate orders on merits and in accordance with law, after affording sufficient opportunity to the fourth respondent herein, within a period of eight weeks from the date of receipt of representation from the petitioner. No costs. Consequently, connected Miscellaneous Petitions are closed. The Writ Petition is disposed of accordingly.

Sd/-

Assistant Registrar(CSI)

/True Copy/

Sub Assistant Registrar

NB

To

1.The District Collector,
Tuticorin District,
Tuticorin.

2.The Assistant Director of Panchayat,
Collectorate,
Tuticorin District,



3. The Chairman,
The Selection Grade Town Panchayat,
Eral, Srivaikundam Taluk,
Tuticorin District.

+1cc to M/s JEYAPPAUL ASSOCIATES, Advocate Sr.No. 6760

+1cc to Spl. Government Pleader Sr.No. 7253

+1cc to Mr. R. S. PRABHU, Advocate Sr.No. 6770

JAM/28.02.17 /SV-MMS/ 4P-7C

**ORDER MADE IN
W.P. [MD] .No. 929 of 2011**

07.02.2017