

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.7117 of 2018

and

WMP.Nos.8813 & 8814 of 2018

M.Kandasamy

S/o.Muthusamy Gounder

.. Petitioner

Vs.

1.The District Revenue Officer
Tiruppur
Tiruppur District.

2.Sri Hanumantharayaswamy Temple
Represented though its Fit Person
Cheyur, Avinashi Taluk
Tiruppur District
Having office at
Sri Venkatesa Perumal Temple
Mondipalayam, Alathur Post,
Avinashi Taluk, Tiruppur District.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Prohibition prohibiting the 1st respondent from entertaining the petition filed by the 2nd respondent under Section 41 of the Tamil Nadu Hindu Religious and Charitable Endowment Act 1989 (Act 22/59) Read with Section 21(7) of the Tamil Nadu Minor Inam (Abolition and Conversion into Ryotwari) Act 1963 dated 21.01.2013 and proceeding in Na.Ka.No.12732/2013/J2 dated 08.12.2017.

For Petitioner: Mr.A.Sivaji

For Respondents: Mr.R.Govindasamy

Special Government Pleader for R1

Mr.M.Maharaja

Special Government Pleader for R2

O R D E R

Mr.R.Govindasamy, learned Special Government Pleader takes notice for the first respondent. Mr.M.Maharaja, learned Special Government Pleader takes notice for the second respondent.

2. This writ petition is filed seeking for a writ of prohibition, prohibiting the first respondent from entertaining the petition filed by the second respondent under Section 41 of the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1989 (Act 22/59) read with Section 21(7) of the Tamil Nadu Minor Inam (Abolition and Conversion into Ryotwari) Act 1963 dated 21.01.2013 and proceeding in Na.Ka.No.12732/2013/J2 dated 08.12.2017.

3. Heard Mr.A.Sivaji, learned counsel for the petitioner, Mr.R.Govindasamy, learned Special Government Pleader for R1 and Mr.M.Maharaja, learned Special Government Pleader for R2.

4. The grievance of the petitioner before this Court is that when settlement proceeding had taken place as early as in the year 1966, followed by granting Ryotwari Patta and registering the land in the name of the petitioner as a private party, the Temple is not justified in making the claim after lapse of such a long time and based on such claim, the first respondent is not justified in proceeding with an enquiry. The learned counsel for the petitioner submitted that the first respondent lacks jurisdiction.

5. Perusal of the enquiry notice issued by the first respondent dated 12.02.2018 clearly indicate that the petitioner was called upon to appear for an enquiry, based on the petition received from the Temple, only to find out the respective claim of the parties, based on the material documents available with them.

6. Needless to say that the first respondent will have to consider the rival claims of the parties and also the issue with regard to the jurisdiction as raised by the petitioner as to whether he can probe into the matter after such lapse of time since the jurisdictional issue raised is more on factual aspect of the matter than on law. As this writ petition is only filed as a pre-emptive measure, I do not think that this Court can go into the rival contentions on the merits of the matter, as it is for the first respondent to consider and decide the same. Therefore, it is open to the respective parties to make their respective claim before the first respondent at the time of enquiry, who in turn will consider their respective claim and pass appropriate orders on merits and in accordance with law.

7. With the above observations, this writ petition is disposed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

mk

To

1.The District Revenue Officer
Tiruppur
Tiruppur District.

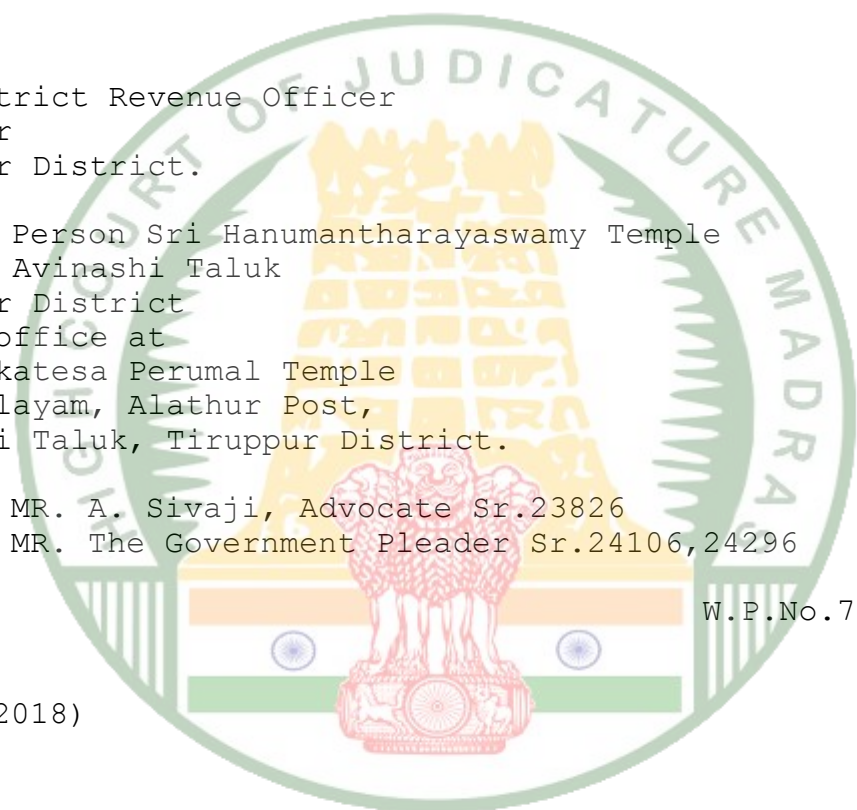
2.The Fit Person Sri Hanumantharayaswamy Temple
Cheyur, Avinashi Taluk
Tiruppur District
Having office at
Sri Venkatesa Perumal Temple
Mondipalayam, Alathur Post,
Avinashi Taluk, Tiruppur District.

+ 1 cc to MR. A. Sivaji, Advocate Sr.23826

+ 1 cc to MR. The Government Pleader Sr.24106,24296

W.P.No.7117 of 2018

GJII(CO)
EU(12/04/2018)



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