

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.21668 of 2017

R.P.Mohankumar

.. Petitioner

Vs.

1. The Deputy Director of Town and Country Planning, Coimbatore, Coimbatore District.
2. The District Collector, Coimbatore District, Coimbatore.
3. The Sub-Collector, Office of Sub-Collector, Pollachi, Coimbatore District.
4. The Commissioner, Pollachi Municipality, Pollachi, Coimbatore District.
5. The Tahsildar, Tahsildar Office, Pollachi, Coimbatore District.
6. A.Muthukumarasamy सत्यमेव जयते
7. The President, Arulmigu Jeevamukthi Sivalaya Temple, Muthukumarasamy Layout, Palakad Road, Pollachi, Coimbatore District.
8. The Commissioner of the Tamil Nadu Hindu Religious and Charitable Endowments Department, Nungambakkam, Chennai-600 034.
(Eighth respondent suo motu impleaded as per order dated 03.01.2018 in W.P.No.21668 of 2017)

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the fourth respondent to implement the order passed by the third respondent in Na.Ka.1406/2016/A1, dated 15.06.2016 within the time that may be fixed by this Court and retain the plot as park as per the approved layout plan.

For petitioner: Mr.C.Veeraraghavan

For respondent: Mr.A.N.Thambidurai,
Spl.G.P. for RR-1 to 3 & 5
Mr.A.S.Thambusamy for R-4
Mr.R.Thiagarajan for RR-6 and 7
Mr.M.Maharaja, Spl.G.P. for R-8

ORDER

(The Order of the Court was made by S.Vaidyanathan,J)

The petitioner has come forward with this Writ Petition praying for issuance of a Writ of Mandamus to direct the fourth respondent to implement the order passed by the third respondent in Na.Ka.1406/2016/Aa1, dated 15.06.2016 within the time that may be fixed by this Court and retain the plot in question as park as per the approved layout plan.

2. According to the petitioner, petitioner and his wife, on 30.08.2001, have purchased the property in the lay out that was formed by the sixth respondent and in the sale deed with regard to the said property, the Eastern side was mentioned as reserved for park. It appears that the seventh respondent has encroached on the land(s) where a Sivan Koil is situated in the place earmarked for public purpose. The petitioner stated that he has made a representation regarding the said encroachment to the fourth respondent who has initiated proceedings based on the same. On 25.08.2015, the first respondent has directed the fourth respondent to initiate action and it was decided to remove the encroachment. Several representations have been made for removal of the encroachment made by the seventh respondent, who has no authority to do so. Thereafter, on 15.06.2016, an order was passed by the fourth respondent stating that the said place is meant for public purpose and that the Temple has been constructed therein. It is further stated that as there is likelihood of the problem on account of the religion, it has been decided to remove the encroachment.

3. When the matter came up for hearing during the last occasion, the sixth respondent who has made a lay out, stated that there is an order passed by this Court on 03.01.2018

recording the willingness of the sixth respondent to donate the land(s) in question for public purpose and that the property in T.S.Nos.17/1 and 17/2 were earmarked for public purpose in the plan, and that in the affidavit, dated 11.01.2018, the sixth respondent averred that he is willing to give his land in which the Temple is situated, in favour of the fourth respondent-Municipality.

4. Admittedly, the place in question is meant for public purpose and that no Temple shall be permitted to exist there. Paragraph 2 of the affidavit filed by the sixth respondent dated 11.01.2018, is extracted below:

"2. I respectfully state that as per the orders of the Hon'ble Division Bench of this Court on 03.01.2018, I am filing this no objection affidavit. I am the owner of the property situated at T.S.Nos.17/1 and 17/2, Town Survey Ward 4, Muthukumarasamy Layout, Pollachi Town and Taluk, Coimbatore District to an extent of 9750 Sq.Ft. When I promoted Muthukumarasamy Layout, the said land was earmarked for public purpose in the plan. In the said land, Temple was constructed which houses various Hindu Idols including Lord Vinayaga, Lord Siva, Sairam, etc. It is a famous Temple which attracts lot of devotees from the Layout and other places and is in existence for the last 30 years. I do not have objection and I am willing to donate the said land, in which the Temple is situated, in favour of the 4th respondent Pollachi Municipality. I also do not have any objection that the Temple may be administered by the 8th respondent H.R. and C.E. Department. I submit that I do not have any objection regarding the place meant for public purpose in the Plan can be utilised by the seventh respondent-Temple and monitored by the 8th respondent H.R. & C.E. Department and the 4th respondent Pollachi Municipality."

5. Since the sixth respondent has no objection to hand over the land(s) in question which is meant for public purpose, which is in his possession, the sixth respondent is directed to hand over the said land(s) in which the said Temple is situated, in favour of the fourth respondent/Pollachi Municipality. It is for the fourth respondent-Municipality and the eighth respondent-HR & CE Department, to decide either to retain the land(s) in question for Temple or use the same by converting it for any other public purpose. The Temple in question may be handed over to the eighth respondent-HR & CE, which shall monitor and maintain the said land(s), besides the fourth respondent-

Municipality. Four weeks' time is granted for the sixth respondent to execute necessary document in favour of the fourth respondent with regard to the donation of the subject matter of the land(s) in question.

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

Sd/-
Assistant Registrar (CS VIII)

//True Copy//

Sub Assistant Registrar

cs

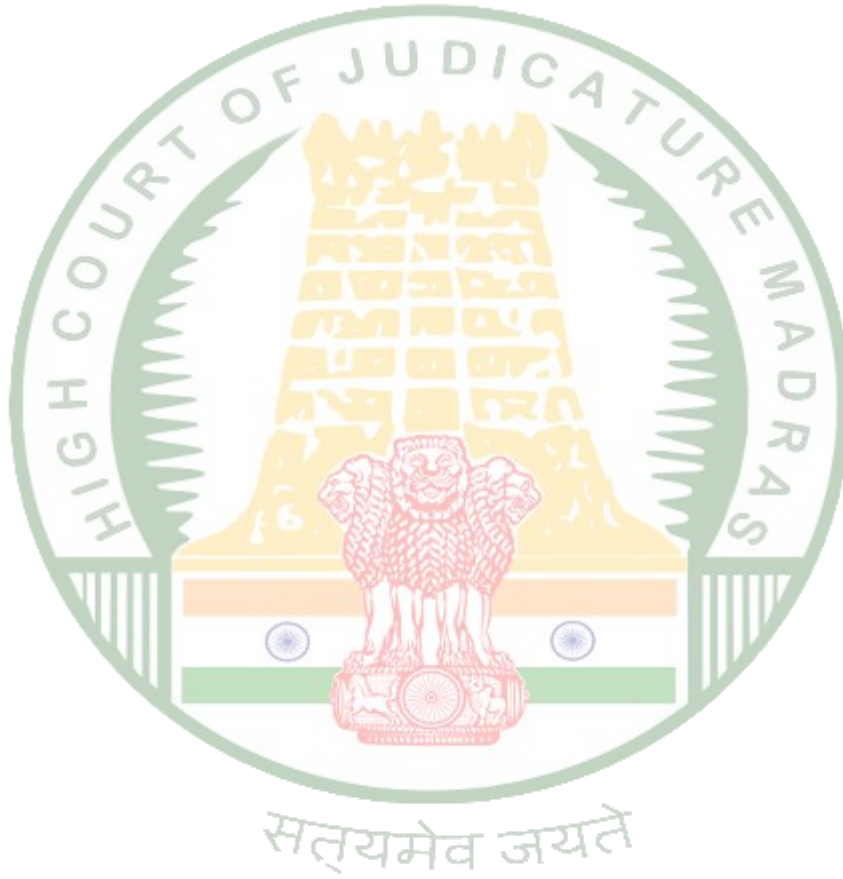
To

1. The Deputy Director of Town and Country Planning, Coimbatore, Coimbatore District.
2. The District Collector, Coimbatore District, Coimbatore.
3. The Sub-Collector, Office of Sub-Collector, Pollachi, Coimbatore District.
4. The Commissioner, Pollachi Municipality, Pollachi, Coimbatore District.
5. The Tahsildar, Tahsildar Office, Pollachi, Coimbatore District.
6. The President, Arulmigu Jeevamukthi Sivalaya Temple, Muthukumarasamy Layout, Palakad Road, Pollachi, Coimbatore District.
7. The Commissioner of the Tamil Nadu Hindu Religious and Charitable Endowments Department, Nungambakkam, Chennai-600 034.

+1cc to M/s.C.Veeraraghavan, Advocate in sr.no.6318
+1cc to Mr.R.Thiagarajan, Advocate in sr.no.6363
+1cc to Mr.A.S.Thambusamy, Advocate in sr.no.6426
+1cc to Government Pleader, sr.no.6797 & 6988

W.P.No.21668 of 2017

CS/07/03/18



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