

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.08.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

WP.No.3041 of 2016
and WMP.No.2502 of 2016

Om Sri Navasakthi Suyambu
Arulmigu Sri Vana Durga Devi
Temple Trust Regn No.330/13,
No.13, Valli Nagar 8th Street
Nadivaram, Guduvanchery - 603 202.,
And represented by its
..Petitioner

vs

1. The District Collector
Kanchipuram District,
Kanchipuram.
2. The Forest Ranger,
Guduvancheri Range,
Old State Bank Colony,
West Tambaram,
Chennai 600 045.
3. The Inspector of Police,
Law and Order,
D-3, Guduvancheri Police Station,
Guduvancheri 603 302.
4. The Secretary to Government
Hindu Religious and Charitable Endowment Board,
Secretariat,
Fort St.George,
Chennai 600 009.
5. The Commissioner,
Hindu Religious and Charitable Endowment Board,
No.119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai 600 034.

6. The Secretary to Government,
Forest Department,
Secretariat,
Fort St.George,
Chennai 600 009.

..Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to direct the 4th respondent to consider the petitioner's representation dated 13.01.2016 and to allot 25 cents land, in the name of Om Sri Navasakthi Suyambu Arulmigu Sri Vana Durga Devi Temple Trust Registration No.330/13 situated at the end of 6th Street, in Govindarajapuram, in Nandivaam Guduvanchery and to issue patta and also issue direction to the forest officials not to interfere with affairs and pooja of the temple.

For Petitioner : Mr.G.Suresh for Mr.Dr.G.Krishnamurthy.

For Respondents : Mrs.A.Sri Jayanthi
Special Government Pleader for R1 & R3.

Mr.R.Balaramesh
Special Government Pleader (Forest) for R2 & R6.

Mr.M.Maharaja
Special Government Pleader (HR & CE) for R4 & R5.

O R D E R

The relief sought for in this writ petition is for a direction to direct the 4th respondent to consider the petitioner's representation dated 13.01.2016 and to allot 25 cents of land in the name of Om Sri Navasakthi Suyambu Arulmigu Sri Vana Durga Devi Temple Trust Registration No.330/13 situated at the end of 6th Street, in Govindarajapuram, in Nandivaam Guduvanchery and to issue Patta and also issue direction to the Forest Officials not to interfere with the affairs and pooja of the Temple.

2. The writ petitioner claims to be a Trust. In paragraph No.3 of the affidavit filed in support of the writ petition, it is stated that there is a Snake Layer (Pambu Puthu) which is in existence for many years. The petitioner states that the same was in existence, when he was a small boy. The Snake Layer is near the Arulmigu Sri Vana Durga Devi Temple and the family of the writ petitioner was conducting Pooja for the past so many years. Annual special functions are being conducted and during such time, the officials of the 2nd respondent / Forest

Department are preventing the writ petitioner and their family members from conducting Poojas in that locality. In view of the fact that the Forest Department is preventing the writ petitioner from conducting Poojas, the writ petitioner is constrained to move the present writ petition.

3. The learned Special Government Pleader appearing on behalf of the 4th respondent / HR & CE Department opposed the contention by stating that there is no such temple in existence in that particular locality. Admittedly it is the Snake Layer (Pambu Puthu) and the petitioner is attempting to abuse the Government property for the purpose of constructing the temple. As of now, there is no temple in existence and the land belongs to the Forest Department.

4. The learned Special Government Pleader appearing on behalf of the Forest Department also contended that the land in question is the reserved forest area and the same cannot be allotted for the purpose of constructing the temple. The writ petitioners have no right to enter into the Forest area without the permission of the competent authority.

5. Admittedly, it is a Snake Layer and the writ petitioner is attempting to take advantage of such things under the guise of sentiments and by conducting poojas, they are intending to grab the land belongs to the Forest Department. Further, it is the reserved Forest area and therefore, the safety of the people are also to be considered by the Forest Department. There is a possibility of forest fire and the reserved forest are to be protected under the Statutes by the Government.

6. This being the factum of the case, the very claim set out in the writ petition is untenable and the writ petitioner has no locus Standi to enter into the reserved forest which is being maintained by the Forest Department.

7. On a perusal of the entire affidavit, this Court is of an opinion that except the fact that the writ petitioner is permitted to conduct the Pooja in the Snake Layer (Pambu Puthu), there is no specific averment that the writ petitioner is the owner of the land or there is a temple in existence for the past many years. In the absence of establishing any such legal right, the writ petitioner cannot move the present writ petition seeking direction to consider the representation submitted by him on 13.01.2016. Even for direction to consider the representation, the person who is approaching the writ Court should establish the legal right. In the absence of any legal right, no such direction as such sought for, can be granted. Admittedly, the land in question is a forest land and under the guise of sentiments, the writ petitioner cannot make any attempt

to abuse the reserved forest area and the said attempt can never be permitted by the competent officials. The respondents cannot permit any such persons to enter into the forest area without any reasons or without any appropriate permission, in accordance with the procedures contemplated in the Statutes.

8. This being the principles to be followed, this Court is of an opinion that the writ petitioner has failed to establish even a semblance of legal right so as to grant relief as such sought for in this writ petition.

9. The writ petition stands dismissed with the above observation. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

1. The District Collector,
Kanchipuram District,
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2. The Forest Ranger,
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+1cc to Mr.J.B.Solomon Petter Kamal Doss, Advocate, S.R.No.54582

+1cc to the Government Pleader, S.R.No.55048,54551,55094

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VSNII(CO)
GSP(06/09/2018)



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