



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 08.03.2018**

CORAM:

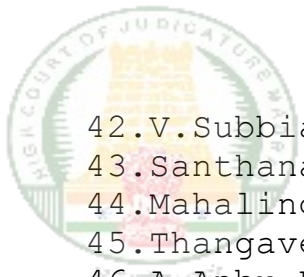
**THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and**

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

WEB COPY

W.A(MD)No.557 of 2014

- 1.V.Subramanian
- 2.Kumaresan
- 3.M.Chelladurai
- 4.P.Mayandi
- 5.P.Thanga Pandian
- 6.P.Gopal
- 7.N.Lakshmanan
- 8.Paul Vanna Perumal
- 9.S.Ramasamy
- 10.Esakki Vel
- 11.A.S.Sundar Raj
- 12.Ramasamy Nadar
- 13.Pandara Nadar
- 14.M.Meignanavel
- 15.T.Chellappa
- 16.A.Ramamoorthy
- 17.S.Megala
- 18.Velmurugan
- 19.N.Suresh Kumar
- 20.M.Easwar
- 21.Perumal Nadar
- 22.B.Patchamal
- 23.Athi Narayanan
- 24.Sankara Perumal
- 25.T.Mary
- 26.V.Madasamy
- 27.Narayana Nadar
- 28.S.Chinna Thai
- 29.Guna Sundari
- 30.N.Pitchumani
- 31.Pon Perumal
- 32.S.Samuthira Pandi
- 33.Vellammal
- 34.Muthu Krishnan
- 35.S.Subramanian
- 36.Chithirai Vadivoo
- 37.Rathnam
- 38.Anna Vadivoo
- 39.Chella Durai
- 40.M.Ameena Benam
- 41.Latha

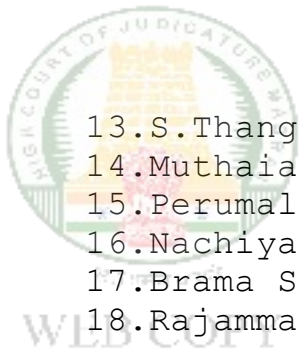


42.V.Subbiah
43.Santhanakumar
44.Mahalingam
45.Thangavelu
46.A.Anbu Bangaja Valli
47.Ramakrishnan
48.Pal Pandi
49.Vettum Perumal
50.Pandiyan
51.Abbas
52.Muthukutti
53.T.Pappa
54.Cherman Pandi
55.Palpandi
56.Thirumal Nadar
57.Vella Durai Nadar
58.Murugesan
59.Florence Vimala
60.Poongothai
61.Muthukutti
62.Mallika

: Appellants

Vs.

1. The Secretary,
Department of Tamil Development,
Religious Endowments and Information,
Government of Tamil Nadu,
Fort St.George, Chennai.
2. The Commissioner,
Hindu Religious and Charitable Endowment,
Nungampakkam, Chennai.
3. The District Collector,
Tirunelveli.
4. His Holiness Sri Jeer,
Sri Vanamamalai Mutt,
Nanguneri Taluk, Tirunelveli District.
5. The Managing Director,
Tamil Nadu Industrial Development Corporation,
No.19 A, Rukmani Lakshmipathi Road,
Egmore, Chennai - 8.
- 6.Ganapathy
7.V.Sudalai Muthu
8.S.Selvaraj
9.Chella Vadivoo
10.Durai Samy Nadar
11.Durai Samy Nadar,
12.Thangavel



13.S.Thangavel
14.Muthaiah
15.Perumal Valluvar
16.Nachiyarammal
17.Brama Sakthi
18.Rajammal

: Respondents

[R5 amended vide order dated 27.01.2015 made
in M.P.(MD)No.1/14 in W.A.(MD)No.557/14]

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent, praying to set aside the order dated 21.02.2014, made in W.P(MD) .No.6693 of 2008.

Prayer in WP(MD) . 6693/ 2008 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To isuse a wirt of Certiorari, call for the records connected with G.O.No.261 dated 21.6.2007 and G.O.312 dated 30.7.2007 passed by the 1st Respondent herein and quash the same as they are void.

For Appellants	: Mr.S.Mani
For Respondents 1 to 3	: Mr.A.K.Baskarapandian Special Government Pleader
For Respondent No.4	: Mr.K.Guhan for Mr.V.Ramakrishnan
For Respondent No.5	: Mr.R.Sekaran for M/s. King & Partridge

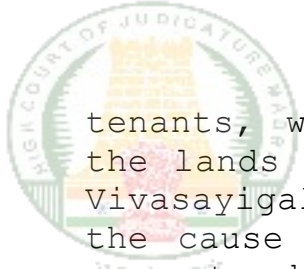
JUDGMENT

[Judgment of the Court was delivered by **M.SATHYANARAYANAN, J.**]

The writ petitioners are the appellants and they filed W.P.(MD)No.6693 of 2008, making a challenge to the order of the first respondent in G.O.No.261 and G.O.312 dated 21.06.2007 and 30.07.2007, respectively.

2.The writ petition, after contest came to be dismissed vide impugned order dated 21.02.2014 and challenging the legality of the same, have filed this writ appeal.

3.The first appellant / first writ petitioner has filed the affidavit in support of the writ petition on his behalf and also on behalf of 74 persons, stating among other things that the fourth respondent is a Mutt, and was established by persons of Vaishnava faith and the said Mutt is having large extent of Nanja and Punja lands in Nanguneri Taluk and other nearby areas. It is further averred that there are several thousands of cultivating



tenants, who are in actual physical possession and enjoyment of the lands and they also formed an association namely, "Tamil Nadu Vivasayigal Sangam (Tamil Nadu Farmer's Association)", to espouse the cause of the tenants. The petitioners would aver that they came to know from the newspapers that large extent of lands belonging to the fourth respondent Mutt were given to a private sector multi-national company and it has been again allotted to the fifth respondent to set a Special Economic Zone and the fifth respondent Corporation is sponsored by the Government of Tamil Nadu. Hence, the first appellant / first respondent filed an application under the Right to Information Act to the second respondent, seeking for the details and then only became aware of the above said two Government Orders.

4. According to the petitioners, as per G.O.No.261, dated 21.06.2007, the first respondent gave direction to the second respondent to accord permission to enter upon the lands belonging to the fourth respondent Mutt and the third respondent also made an offer to the second respondent for the sale of lands under Section 34 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 [hereinafter referred to as "the Act"] for the purpose of formation of Hi-Tech Park and the fourth respondent Mutt has also agreed to convey the lands admeasuring to an extent of 165.88.5 hectares. The first respondent within 40 days of the first Government Order, namely, G.O.No.261, passed another Government Order in G.O.No.312 dated 30.07.2007, in and by which accorded permission to the second respondent for sale of the said lands in favour of the fifth respondent.

5. The grievance expressed by the petitioners is that though they are in possession and occupation of the lands belonging to the fourth respondent Mutt and carrying on agricultural operations for quite long time, they have not been afforded with any kind of opportunity whatsoever and would further add that while passing the impugned Government Orders, the mandate cast upon the provisions of the Act, more particularly, Section 34(1) have not been adhered to and therefore, came forward to file this writ petition.

6. The fourth respondent Mutt has filed the counter affidavit denying the relationship of the landlord and tenants and specifically denied the fact as to the status of cultivating tenants claimed by the petitioners. It is further averred by the fourth respondent Mutt that they have also given no objection for initiating proceedings under Section 34 of the Act.

7. The fifth respondent has filed their counter affidavit and stated that they approached the fourth respondent Mutt as well as the first respondent to purchase the property owned by the fourth respondent Mutt and the first respondent had also accorded approval and the fifth respondent had purchased the lands of the

fourth respondent for valuable consideration and the said lands in turn has been leased out to a joint venture company and possession of the same has been handed over.

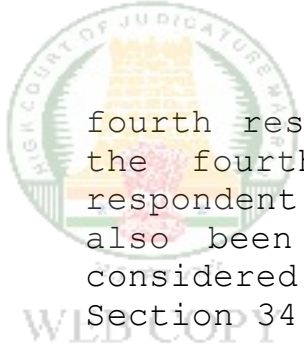
8. The learned Judge has taken note of the fact that the lands admeasuring to an extent of 165.88.5 hectares, belonging to the fourth respondent Mutt had been sold for a sale consideration of Rs.1,63,60,000/- by way of a registered sale deed in Document No.7278 of 2007 dated 20.12.2007 and the possession of the lands has also been handed over and along with the said lands, poramboke lands had also been alienated to a joint venture company namely, "AMRL International Tech City Ltd.," and huge sum of money has also been spent to develop the said lands for the purpose of establishing Hi-Tech Industrial Park.

9. The learned Judge has also recorded the finding that except the averments made, the petitioners did not file any document that they are the cultivating tenants under the fourth respondent and therefore, held that the claim made by the petitioners is liable to be rejected and assigning the said reason, has dismissed the writ petition, vide impugned order dated 21.02.2014 and challenging the legality of the same, the writ petitioners have filed the present writ appeal.

10. The learned counsel appearing for the appellants would submit that the petitioners have been issued with receipts by the fourth respondent Mutt and the same would evidence the fact that they are the cultivating tenants. If the petitioners are really the cultivating tenants they should have invoked the provisions of the Tamil Nadu Cultivating Tenants (Protection) Act, 1955, to get themselves declared as cultivating tenants and admittedly they have not followed the said provision and that apart, the fourth respondent Mutt in their counter has clearly denied the averment that the petitioners are the cultivating tenants.

11. The primordial submission made by the learned counsel appearing for the appellants is that Section 34(1) of the Act has not been adhered.

12. It is to be noted at this juncture that the Commissioner of HR & CE Department has been arrayed as the second respondent and the first respondent has directed the second respondent to accord permission to enter upon the lands and though it is open to the second respondent in terms of the said provision to deny such a permission, having taken note of the benefits accorded to the fourth respondent Mutt, through the second G.O.No.312 dated 30.07.2007, has accorded permission to the fourth respondent Mutt to sell the lands in favour of the Tamil Nadu Industrial Services Corporation. The first respondent is the administration department of the Hindu Religious and Charitable Endowments and having taken note of the benefits accorded to the



fourth respondent, has rightly prevailed upon and also permitted the fourth respondent Mutt to sell the lands to the fifth respondent for a sale consideration of Rs.1,63,60,000/-, which has also been paid to the fourth respondent. Therefore, in the considered opinion of this Court, there has been a compliance of Section 34 of the Act.

13.As already pointed out, in the absence of any substantive and tenable materials as to the status of the petitioners as cultivating tenants, the prayer sought for by them cannot be granted and also in the light of the said stand taken by the fourth respondent Mutt in the counter affidavit, denying the petitioner's status as cultivating tenants. The said issue also revolves around adjudication on disputed questions of facts and the jurisdiction of the Court under Article 226 of the Constitution of India cannot be invoked to adjudicate the said issue.

14.The learned Judge, on a thorough consideration of the facts and legal position has rightly reached the conclusion to dismiss the writ petition.

15.This Court, on an independent application of mind to the entire materials, is of the considered view that there is no error apparent or infirmity in the reasons assigned by the learned Judge for dismissing the writ petition and finds no merit in this writ appeal.

16.In the result, the writ appeal is dismissed confirming the order dated 21.02.2014, made in W.P(MD).No.6693 of 2008. However, in the circumstances of the case, there shall be no order as to costs.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary,
Department of Tamil Development,
Religious Endowments and Information,
Government of Tamil Nadu,
Fort St.George, Chennai.
2. The Commissioner,
Hindu Religious and Charitable Endowment,
Nungampakkam, Chennai.
3. The District Collector,
Tirunelveli.



+1cc to Mr.V.Ramakrishnan, Advocate Sr.No.54002
+1cc to M/s. King & Partridge, Advocates Sr.No.53902
+1cc to The Spl. Government Pleader Sr.No.54105

MR
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VB/CVC/SAR1/04.04.2018/7P/7C

JUDGMENT MADE IN
W.A(MD) No.557 of 2014
08.03.2018