



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.07.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU
AND
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

W.A(MD)NO.996 OF 2018
and
C.M.P(MD)No.6855 of 2018

1.A.Jayaprakash

2.V.Ramu

3.M.Rajakumari

4.N.Arumugam

5.V.Sellam

6.A.Lakshmi

7.Velayi Ammal

8.G.Kalimuthu

9.A.Sathya

10.M.Karuppaiah

11.Periyaiah Servai

12.M.Devi

13.G.Vairamani

:Appellants/Third parties

.vs.

1.P.Lakshmanan

represented through his power agents:

(1).S.Annamalai

Son of SP.Subbiah,
3, Mahalakshmi Nagar,
Second West Street,



(2) .M.Thanneer Malai,
Son of VR.Muthukaruppan,
Thanthai Periyar Nagar Second Street,
Burma Colony, Karaikudi -02. ..Respondent/Writ Petitioner

2.The Superintendent of Police,
Sivagangai District,
Sivagangai.

3.The Joint Commissioner,
Hindu Religious and Charitable Endowments,
Sivagangai District,
Sivagangai.

4.The Assistant Commissioner,
Hindu Religious and Charitable Endowments,
Paramakudi,
Ramanathapuram District.

5.U.Muthu Chettiar

6.The Commissioner,
Hindu Religious and Charitable
Endowments Department,
Chennai - 600 0034.

7.The State of Tamil Nadu,
represented by its Secretary,
Revenue Department,
Fort St.George,
Chennai.

: Respondents/Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent praying this Court to set aside the order passed by this Court in W.P(MD)No.14428 of 2017, dated 12.02.2018.

Prayer in WP(MD). 14428/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus to call for the records in Na.Ka.No.65/2017/E-1 dated 30.06.2017 on the file of the 3rd respondent and quash the same and direct the respondents 2 and 3 to take action against the 4th respondent and recover the temple lands more specifically mentioned in the annexure enclosed along with the affidavit.

For Appellants
For Respondent-1
For Respondents
2 to 4, 6 and 7

:Mr.Raguvaran Gopalan
:Mr.S.Ramesh
:Mr.VR.Shanmuganathan
Spl.G.P.



JUDGMENT

[Judgment of the Court was made by K.RAVICHANDRABAABU, J.]

Mr.S.Ramesh, learned counsel takes notice for the first respondent/Writ Petitioner. Mr.VR.Shanmuganathan, learned Special Government Pleader takes notice for the respondents 2,3,4,6 and 7.

2.Since it is admitted by both sides that the issue involved in this Writ Appeal is covered by an order already made in another W.A (MD)No.651 of 2018, dated 8.3.2018, the present Writ Appeal is disposed of at the stage of admission itself, without issuing any notice to the fifth respondent, from whom these appellants alleged to have purchased the subject-matter property.

3.The appellants are third parties in the Writ Proceedings. However, they are aggrieved against the order passed by the Writ Court in W.P(MD)No.14428 of 2017, dated 12.2.2018, wherein and whereby, certain directions were issued to the authorities in respect of the temple properties. It is submitted by both sides that seven other third parties have already filed W.A(MD)No.651 of 2018 after obtaining leave, challenging the very same order passed by the Writ Court and that the Division Bench of this Court by judgement, dated 8.3.2018, disposed of the said Writ Appeal. Thus, it is submitted that the very same order can be passed in this matter also, since the issue involved in both the matters are one and the same.

4.In the above said W.A(MD)No.651 of 2018, the Division Bench has observed, after referring to Section 78 of the Hindu Religious and Charitable Endowments Act as follows at Paragraph Nos.9 to 11 as follows:

'9. In the light of the facts and circumstances, the third respondent, in the event of initiating proceedings under Section 78 of the HR and CE Act, 1959, is to decide the matter in accordance with law, and while doing so, shall afford an opportunity either to the appellants 1 to 7 or their power of attorney agents, to raise their objections. The appellants, till the disposal of the proceedings under Section 78 of the HR & CE Act, 1959, shall not create any third party rights in respect of the site and superstructures in question and shall not alter the physical features also.

10. The respondents 3 and 4 herein shall complete the said exercise within a period of twelve weeks from the date of receipt of a copy of this order and till such time, the respondents shall not interfere with the possession and enjoyment of the site and superstructures in question.

11. The Writ Appeal stands disposed of accordingly. No costs. Consequently, the connected Miscellaneous

5. Since it is admitted by both sides that the present appellants are also similarly situated with that of the appellants therein, this Writ Appeal is also disposed of as follows:

(a) In the light of the facts and circumstances, the third respondent, in the event of initiating proceedings under Section 78 of the HR and CE Act, 1959, is to decide the matter in accordance with law, and while doing so, shall afford an opportunity either to the appellants 1 to 13 or their power of attorney agents, to raise their objections. The appellants, till the disposal of the proceedings under Section 78 of the HR & CE Act, 1959, shall not create any third party rights in respect of the site and superstructures in question and shall not alter the physical features also.

(b) The respondents 3 and 4 herein shall complete the said exercise within a period of twelve weeks from the date of receipt of a copy of this order and till such time, the respondents shall not interfere with the possession and enjoyment of the site and superstructures in question.

(c) No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar (CS-III)

To

1. The Secretary,
Government of Tamil Nadu,
Revenue Department,
Fort St. George,
Chennai.
2. The Commissioner,
Hindu Religious and Charitable
Endowments Department,
Chennai - 600 0034.
3. The Superintendent of Police,
Sivagangai District,
Sivagangai.
4. The Joint Commissioner,
Hindu Religious and Charitable Endowments,
Sivagangai District,
Sivagangai.
5. The Assistant Commissioner,
Hindu Religious and Charitable Endowments,
Paramakudi,
Ramanathapuram District.



+1cc to M/S.K.Prabhakar, Advocate SR.No. 75509
+1cc to M/S.V.Raghavachari, Advocate SR.No. 75723
+1cc to Special Government Pleader, SR.No. 75629

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JUDGMENT MADE IN
W.A(MD)NO.996 OF 2018
and
C.M.P(MD)No.6855 of 2018
27.07.2018

vsn
JM/KAK/SAR 3/10.08.2018/5P/9C