



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY
AND
THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P (MD) No.23732 of 2017

K.Arunachalam

... Petitioner

Vs.

1. The District Collector,
Tirunelveli District,
Tirunelveli.
2. The Executive Officer,
Keezhapavoor Town Panchayat,
Keezhapavoor,
Tirunelveli District.

3.Ponnusamy

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent to consider the petitioner's representation, dated 27.10.2017.

For Petitioner : Mr.V.Sasikumar
For RR 1 & 2 : Mr.A.K.Baskara Pandian,
Special Government Pleader.

For R - 3 : Mr.F.X.Eugene

ORDER

(Order of the Court was made by **S.S.SUNDAR, J.**)

This Writ Petition is filed by one Mr.K.Arunachalam for issuing a Writ of Mandamus, directing the first respondent to consider the representation of the petitioner, dated 27.10.2017.

2. In the representation, dated 27.10.2017, the petitioner has requested the Executive Officer of Keezhapavoor Town Panchayat to reject the planning permission and the licence granted for running the marriage hall belonging to Arulmighu Muppidathiamman Temple



and for taking action through Court to demolish the marriage hall.

3. From the representation, it is evident that there is a dispute in respect of the land surrounding the place where the marriage hall is constructed by the Temple known as Arulmighu Muppidadthiamman Temple in Keezhapavoor Village.

4. It is the case of the petitioner that an extent of 4 acres 20 cents in New Survey Nos.297/1 and 297/3 in Keezhapavoor Village, originally was the sridhana property of one Muppidadthiammal and that in the year 1908, the Re-settlement Officer had issued patta in favour of Muppidadthiammal. It is the further case of the petitioner that an extent of 21 cents was given in favour of Arulmighu Muppidadthiamman Temple subject to certain conditions. It is further stated that the Temple has now constructed a huge marriage hall without obtaining any valid permission from the respondents 1 and 2. The third respondent has produced the approved building plan and licence for the marriage hall constructed by Temple.

5. The third respondent has filed a Writ Petition in W.P (MD)No.12121 of 2018 for issuing a Writ of Certiorarified Mandamus, to quash the proceedings of the District Officer, Fire and Rescue Department, dated 30.05.2018 and to direct him to issue No Objection Certificate to the Temple marriage hall.

6. This Court is able to see the following facts which are not in dispute.

7. A suit in O.S.No.339 of 2003, on the file of the District Munsif Court, Tenkasi, was filed by one Arumugam in a representative capacity for permanent injunction, claiming title on the basis of revenue entry showing one Mupidathiammal as owner of the property. The said suit was dismissed. Against the dismissal of the said suit, the said Arumugam filed an appeal in A.S.No.15 of 2005, on the file of the Subordinate Court, Tenkasi and the same was also dismissed. Later, the petitioner along with one Ganesan filed a suit in O.S.No.41 of 2017 before the Principal District Munsif Court, Tirunelveli, for permanent injunction. The issue raised in this suit is also similar to the issue raised in O.S.No.339 of 2003 on the file of the District Munsif Court, Tenkasi. The stand taken by the petitioner and Ganesan in the suit is that the property in Survey Nos.297/1 and 297/3 in Keezhapavoor Village was the property of one Muppidadthiammal, wife of Arunachala Nadar. It is also brought to the notice of this Court that in the later suit filed before the Principal District Munsif, Tirunelveli, the third respondent or the Temple was not made as a party, even though the relief claimed in the suit would affect the said court and the dispute is mainly in respect of the land in which a huge marriage hall, has now been constructed by the trustees of Temple including the third respondent herein. It is



also admitted that in the Civil Revision Petition filed by one S.K.J.Murugan before this Court, interim order has been granted staying the operation of the order that was granted by the trial Court in O.S.No.41 of 2017 on the file of the Principal District Munsif, Tirunelveli.

8. The fact that the property is situated within the jurisdiction of District Munsif Court, Tenkasi, is not in dispute. Hence, the suit filed by the petitioner before the Principal District Munsif Court, Tirunelveli is improper, as the Principal District Munsif Court, Tirunelveli has no territorial jurisdiction.

9. Be that as it may, the petitioner has filed the present Writ Petition to consider the representation of the petitioner, wherein the petitioner has requested the authorities to take action only on the basis of the interim order in I.A.No.41 of 2017 in O.S.No.41 of 2017 pending on the file of the Principal District Munsif Court, Tirunelveli. While submitting the representation, the petitioner has suppressed the fact that the claim made by the petitioner and his family members in respect of the land in Survey Nos.297/1 and 297/3 which are the subject matter in the earlier suit was considered and it has been held that the petitioner and his men have no right in the lands in Survey Nos.297/1 and 297/3 in Keezhapavoor Village. In the suit filed by the petitioner and another in O.S.No.41 of 2017, the earlier Judgment passed by the trial Court in the previous suit filed by another person claiming title is not disclosed. Suppressing the fact that the previous suit filed by one of the members of the family of the petitioner was dismissed, the second suit came to be filed by the petitioner. It is also admitted that claiming patta in favour of Smt.Mupidathi Ammal and challenging the order of DRO retaining the patta in favour of Temple, a Writ Petition was filed by one Arumugam in W.P.No.10620 of 1999 and the order of DRO was confirmed rejecting the contention of the writ petitioner. Again by suppressing the disposal of the earlier suit filed in a representative capacity and suppressing the order passed in W.P.No.10620 of 1999, the present Writ Petition has been filed by the petitioner before this Court. Since the petitioner's right has already been considered by this Court in the Writ Petition and the civil Court has found that the petitioner's family has no semblance of right over the property in dispute, this Court has no hesitation to hold that the petitioner cannot sustain his representation on the basis of an order obtained in a subsequent suit which is also the subject matter of a Civil Revision Petition filed by one S.K.J.Murugan before this Court and the interim order is stayed by this Court. The petitioner, who invokes jurisdiction of this Court under Article 226 of the Constitution of India, must come with clean hands and should not suppress any material or relevant fact from Court.



10. Considering the fact that the petitioner has suppressed material facts, this Court is not inclined to entertain this Writ Petition and hence, the Writ Petition is liable to be dismissed and the same is dismissed. No costs.

Sd/-

Assistant Registrar (CO)

WEB COPY

/True Copy/

Sub Assistant Registrar

TO

1. The District Collector,
Pudukkottai District.

+ 1 cc TO Mr.V.Sasi Kumar , Advocate in SR No. 67824

+ 1 cc TO Mr.F.X.Eugene , Advocate in SR No. 67797

ps

AE/SKN RSK/SAR3/25.06.2018/4P/4C

W.P (MD) No. 23732 of 2017
11.06.2018