

**THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI**

**I.A.No.1 of 2015 (W.P.M.P.No.23932 of 2015)**

**IN/AND**

**WRIT PETITION No.37303 of 2013**

**COMMON ORDER:**

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner requesting to issue a writ of Mandamus or other appropriate writ order declaring the inaction on the part of the respondents 1 to 5 in considering the representation, dated 07.11.2013, of the petitioner in respect of land admeasuring Ac. 6.05 cents in Survey No.151/3 of Kallur Revenue Village, Pulicherla Mandal, Chittoor District, said to be belonging to Lord Kasi Viswanadha Swamy alias Murthy Swamy, a Presiding Deity of the temple at Develampeta Village, Pulicherla Mandal, Chittoor District, as illegal & arbitrary and that the said inaction amounts to dereliction of duties on the part of the respondents 1 to 5. A consequential direction is also sought to the respondents to consider the afore-stated representation of the petitioner in an appropriate manner.

**2.** I have heard the submissions of Sri *I.Munniraja*, learned counsel appearing for the petitioner; of the learned Government Pleader for Endowments (A.P.), appearing for the respondents 1 & 2; of the learned Government Pleader for Revenue (A.P.), appearing for the respondents 3 to 5; and of Sri *V.Vinod K.Reddy*, learned counsel appearing for the impleaded 6<sup>th</sup> respondent. I have perused the material record including the pleadings of the parties.

3. The case of the petitioner, in brief, is this: 'The temple of Sri Kasi Viswanadha Swamy alias Murthy Swamy in Devalampeta Village, is in existence since times immemorial. The temple is having the afore-stated property besides other properties at various places. There is documentary evidence evidencing the fact that the subject land is a temple land and is endowed to the temple. The 6<sup>th</sup> respondent and others are no way concerned with the said property and other properties of the temple. However, they encroached upon the subject temple land by creating false documents, having influenced the revenue officials, i.e., the Tahasildar, Pulicherla Mandal, Chittoor District. Despite repeated representations made by the petitioner to the Tahasildar, Pulicherla Mandal, orally as well as in writing, no action has been taken against the said encroachers of the temple land. The petitioner also got issued a legal notice, dated 28.01.2011, to the said encroachers of the temple land and also to the District Collector, Chittoor District, as well as the Tahasildar, Pulicherla Mandal, Chittoor District, for initiating necessary action. Having received the said notice, the District Collector and Revenue Officers have not initiated any action. However, on the representation, dated 17.01.2011, of the petitioner submitted to the Joint Collector, an endorsement was made by the Joint Collector referring the said representation to the Tahasildar to take immediate action. In the circumstances, the petitioner submitted a representation, dated 07.11.2013. And for the inaction on the part of the respondents 1 to 5 in considering and disposing of the said representation, the present writ petition is filed.'

4. On 26.12.2013, this Court admitted the writ petition and granted the following interim order in W.P.M.P.No.46418 of 2013:

**“Notice.**

**In the meantime, the properties of the temple in question shall not be alienated at all and every effort must be made to ensure that the licence to cultivate the lands should be granted by holding public auction in that regard.”**

5. Today, this Court allowed I.A.No.1 of 2015 (W.P.M.P.No.23932 of 2015) filed by the non-official respondent and permitted his impleadment as 6<sup>th</sup> respondent. The said respondent filed a vacate petition seeking to vacate the afore-stated interim order.

6. When the vacate petition is taken up for hearing, a joint request was made to dispose of the writ petition on its merit instead of the vacate petition.

7. The case of the vacate petitioner, as per the averments in the counter affidavit and the submissions made before this Court, in brief, is as follows: The land of an extent of Ac.3.30 cents was an Inam Dry land; it was originally the property of his grand father Late Muthuswamy, who is the inamdar since 1955. Subsequently, a ryotwari patta was granted in favour of the grand father. On his death, the property devolved upon the petitioner's father Late Narayana Swamy. Thereafter, the petitioner inherited the property being the successor in interest. The revenue entries since 1955 relating to the said land evidence the said facts. Even the revenue records, pattadar passbook and the adangal/pahani being maintained by the Revenue Department show that the property belongs to the petitioner and his ancestors. The petitioner wields a

considerable political influence. With an ill-motive, he has been indulging in blackmailing this respondent and is threatening this respondent to give to him a major piece of land; and as this respondent did not oblige the said request, he bore grudge and is giving false representations by resorting to inventive methods & coercive tactics; and being unsuccessful in such attempts, he eventually filed the present writ petition with false and invented allegations.”

**8.** Both parties filed additional documents. The same are received on file.

**9.** Though no counter is filed by the respondents 1 & 2, learned Government Pleader for Endowments, in his opening submission, stated that the petitioner ought to have impleaded the institution/temple as a party respondent and that he failed to do so. However, he has drawn the attention of this Court to the representation, dated 17.01.2011, of the petitioner given to the Joint Collector and stated that a representation was given only to the Joint Collector. He had further stated that had the petitioner impleaded the institution as a party respondent, the institution would have disclosed its stand in the matter.

**10.** I have given earnest consideration to the facts and submissions.

**11.** The main submission of the writ petitioner is that the subject land is a temple land and that there is voluminous documentary evidence evidencing the fact. Further, his grievance is that the representations given by him to the respondents with good

intentions and with requests to protect the temple lands & temple properties and to utilise the same in a beneficial and fruitful way are not being considered by the official respondents.

**12.** Further, learned counsel for the writ petitioner has drawn the attention of this Court to the following documents:

1) Copy of Adangal/Pahani issued by the Tahasildar, Pulicherla Mandal.

2) List of prohibited properties including the subject land, the registration of which is prohibited under Section 22-A(1)(c) of the Indian Registration Act, 1908.

3) Copies of fair Adangal reflecting that the subject land is a “Devuni Manyam” with its old Survey No.24 including the fair Adangal apart from other documents.

**13.** The said learned counsel submitted that the name of the grand father of the 6<sup>th</sup> respondent is being wrongly projected as ‘Muthuswamy’, though the Mortgage Deed and Sale Deed, copies of which are filed along with the additional documents, disclose that the name of the grand father of the 6<sup>th</sup> respondent is Diviti Ranganayakulu.

**14.** However, learned counsel for the 6<sup>th</sup> respondent has drawn the attention of this Court to the following documents:

1) Copy of the endorsement related to the enquiry under the Right to Information Act, 2005, with regard to the following documents:

(i) List of Endowment properties situated in Pulicherla Mandal and Kallur Village, Pulicherla Mandal, prepared under Section 22-A(1)(c) of the Indian Registration Act, 1908.

(ii) Report submitted to the Sub-Collector, Tirupathi, regarding land of an extent of Ac. 6.05 cents in Survey No.153/3 of Kallur Village, Pulicherla Mandal; and

(iii) Copy of the Endorsement IDT No.88/2011 of the District Collector, Chittoor.

2) List of prohibited properties under Section 22-A(1)(c) of the Indian Registration Act, 1908.

3) Report of the Tahasildar, Pulicherla Mandal, dated 30.11.2016, addressed to the District Collector, Chittoor.

**15.** Learned counsel for the vacate petitioner also has specifically drawn the attention of this Court to the report said to have been submitted, after a detailed enquiry, by the Tahasildar, Pulicherla, to the District Collector, Chittoor, wherein the Tahasildar opined to the effect that the subject land in Survey No.151/3 was not shown in the list of endowment lands received from the Assistant Commissioner, Endowments Department, Chittoor District, and that the officers of the Endowment Department, Chittoor, have not included the subject lands in the tender-cum-auction notices that were issued from to time with regard to the public auctions of leasehold rights etcetera of the temple properties and that, therefore, the allegations of the petitioner herein are incorrect and baseless.

**16.** I have examined the documents in *juxtaposition*. The earliest documents lay bare *ex facie* that the subject land is 'Devuni Manyam' (temple land). Though, undoubtedly, the Tahasildar, Pulicherla Mandal, has given a report to the Collector that the allegation of the petitioner with regard to the land in Survey No.151/3 of an extent of Ac. 6.05 cents is incorrect and baseless, yet this Court is of the considered view that the said report given by the Tahasildar, without adverting to the earliest revenue record cannot *ex facie* be considered as final and conclusive, more particularly when he did not make an enquiry with the Assistant Commissioner of Endowments or any other officer concerned of the Endowments Department, who are the competent officers to say whether the properties in question are temple properties and whether the same are endowment properties or not. On detailed consideration of the facts, submissions and the contents of the documents, this Court is satisfied that sufficient case is made out by the writ petitioner and that, therefore, the requests made in the writ petition deserve appropriate consideration.

**17.** Accordingly, the Writ Petition is allowed and the respondents 1 to 5 are directed to take necessary steps forthwith for conduct of a detailed enquiry on the representation, dated 07.11.2013, of the petitioner by entrusting the task to a competent officer. It is needless to state that the said officer shall conduct the enquiry by following the principles of natural justice and the procedure established by law, nonetheless, after affording an opportunity of hearing to the petitioner as well as the 6<sup>th</sup> respondent and other stake holders, if any. The necessary exercise in the above regard shall be completed within eight (08) weeks from the date of receipt

of a copy of this order and the decision taken thereon shall be communicated by the officer concerned of the Endowments Department to the petitioner as well as the 6<sup>th</sup> respondent within a week thereafter. In view of the merger of the interim order in this final order, it is made clear that till the enquiry is completed and a considered decision is taken in the matter, *status quo* prevailing as on the date of institution of the writ petition shall be maintained by both the parties.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

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**JUSTICE M. SEETHARAMA MURTI**

Date: 10<sup>th</sup> August, 2018

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