

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.Nos. 6014 & 6015 of 2006
and
WMP No.268 of 2013 and 37769 of 2017
in
WP No.6014 of 2006

Arulmigu Subramaniya Swamy Thirukoil
Sivanmalai, Kankeyam Taluk,
Erode District, Rep. by its Trustee:
K.G.K.Krishnakumar.

..Petitioner in
WP.No.6014 of 2006

Arulmigu Patteeswara Swamy Thirukoil
Marudurai Village, Kangeyam Taluk
Erode District
Rep. by Fit Person, N.Perumal

..Petitioner in
WP.No.6015 of 2006

Vs

1. The State of Tamil Nadu
Represented by Secretary to Government,
Revenue Department
Fort St., George, Chennai 600 009.
2. The Land Commissioner
Chepauk, Chennai 600 005.
3. The Authorised Officer &
Assistant Commissioner (Land Reforms)
Erode
4. Subramani
5. S.Palanisamy
6. K.Chinnasamy
7. Velusamy

8. Tmt.Sivathal
9. M.Krishnasamy
10. M.Ramasamy
11. M.Karuppusamy
12. S.Subramani
13. K.Muthusamy

.. Respondents in
WP.No.6014 of 2006

1. The State of Tamil Nadu
Represented by Secretary to Government,
Revenue Department
Fort St.,George, Chennai 600 009.
2. The Land Commissioner
Chepauk, Chennai 600 005.
3. The Authorised Officer &
Assistant Commissioner(Land Reforms)
Erode
4. Duraisamy
5. Marimuthu
6. Loganathan
7. A.Subramani
8. M.Ganesan
9. R.Saminathan
10. G.Maniyarasi
11. K.Nachammal
12. R.Loganathan
13. S.Senniappan

.. Respondents in
WP.No.6015 of 2006

Prayer in W.P.No. 6014 of 2006: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ Certiorarified Mandamus, calling for the entire records pertaining to Final Statement made by the first respondent under

Section 18(1) of the Land Reforms Act (Act 58/61) published in Tamil Nadu Government Gazette dated 30.1.1995 in respect of the lands belonging to the petitioner Temple, and that of the proceedings of the 2nd respondent made in D1/R.P.14/2003 dated 24.11.2004 and quash the said proceedings of the first and second respondents and consequently direct deletion of the lands in New Survey Nos.491/2, 491/4, 533/3, 4, 15, 18, 780/2, 1400/2 to the total extent of 7.74.5 Hectares of Sivanmalai Village, Kangeyam Taluk, Erode District, belonging to the petitioner temple from the final statement.

Prayer in W.P.No. 6015 of 2006: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ Certiorarified Mandamus, calling for the entire records pertaining to the final Statement published in the Tamil Nadu Govt. gazette dated 30.1.1995 by the first respondent in respect of the Petitioner's lands, and the proceedings of the second respondent made in D1/R.P. 15/2003(L.Ref.) dated 24.11.2004 and quash the said final statement of the first respondent and the proceedings of the second respondent and consequently direct deletion of the lands of the petitioner temple in Survey No.226 to an extent of 0.58.5 Hectares and in Survey No. 228/1 to an extent of 5.10.0 Hectares totaling to 5.68.5 Hectares, Marudhurai Village, Kangeyam Taluk, Erode District, from the final statement of the first respondent.

For Petitioners : Mr.M.Sriram
in both writ petitions

For Respondents : Mr.J.Ramesh, AGP
for R1 to R3 in both petitions
Mr.C.Prakasam
for R4 & R5

C O M M O N O R D E R

Since the prayer in the above Writ Petitions are one and the same, they are clubbed together and a common order is passed in both the writ petitions.

2. The case of the petitioners is that Arulmighu Subramaniya Swamy Temple and Arulmighu Patteeswaraswamy are very ancient temples, not only people in and around Kangeyam Taluk in Erode District, but also people from all over the country and other non-resident Indians used to throng the temple in huge numbers at the time of festival. The temple originally found by the ancient Rulers had extensive lands as Maaniyam for the Welfare of the devotees and to meet the day-to-day expenses of the temple. It is a common case that the lands donated to the

temples are in the names of either the then trustees or on the very Deity itself. Due to efflux of time and lack of proper management, the lands, which were under the possession and enjoyment of the temple drifted away and that the third party rights came to be created.

3. The lands of the temples were wrongly included in the holdings of Mr.A.S.Sarkari @ Sivakumar and Mr.Sivakumar Mandradiyar respectively, by the Assistant Commissioner, without issuing notice to the Temple authorities. After coming to know about the same, the temple authorities have taken steps to file a petitions before the Assistant Settlement Officer in the year 1995, and thereafter, the Assistant Settlement Officer dismissed the petitions. Aggrieved by the said order, the temple authorities filed a revision petition before the Commissioner under Section 82 Rule 11(3). Though the revision petitioner raised above said primary issue, the authorities as well as the respondents have failed to consider the main issue raised in the revision petition. Hence, it is necessary to remand the matter back to the authority to answer the question raised before the revisional authority.

4. This Court is not expressing any opinion on the merits of the matter. However, the Special Commissioner is directed to consider the main issue, after giving opportunity to the petitioners as well as the private respondents to produce records, if any, and to pass appropriate orders on merits and in accordance with law as expeditiously as possible and in any case, within a period of two months from the date of receipt of a copy of this order.

5. Accordingly, the writ petitions stand disposed of. No costs. Connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

kmm

To

1. The State of Tamil Nadu
Represented by Secretary to Government,
Revenue Department
Fort St., George, Chennai 600 009.

2. The Land Commissioner
Chepauk, Chennai 600 005.

3. The Authorised Officer &
Assistant Commissioner(Land Reforms)
Erode

+1cc to Mr.S.Saravanan, Advocate SR.No.59436

+1cc to Mr.M.Sriram, Advocate SR.No.59519

+1cc to Mr.C.Prakasam, Advocate SR.No.59570

+1cc to Government Pleader SR.No.59720

W.P.Nos. 6014 & 6015 of 2006

MG (CO)
GMY (10/10/2019)



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