

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P.No.30321 of 2019
and W.M.P.No.30311 of 2019

Coimbatore Gengadiga Okkaliga
Perur Madam Thoppu Paribalana Sabai,
Perur, Coimbatore,
Rep.by its President D.Sivasubramanian. .. Petitioner
Coimbatore 641 010

/versus/

1.The Tahsildar and Record Officer,
(Tenancy Records),
Perur,
Coimbatore-641 010.

2.The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
Dr.Balasundaram Road,
Coimbatore-641 018.

3.S.Shanmugam .. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of Writ of Certiorari, calling for the records relating to the proceedings in T.R.No.1 of 2019/A2 dated 25.01.2019 on the file of the first respondent herein and to quash the same.

For Petitioner : Mr.Elizabeth Ravi
For Respondents : Mr.N.Inbanathan, AGP for R1
Mr.M.Maharaja, SGP(HR&CE) for R2

O R D E R

By consent, the main writ petition is taken up for final disposal at the admission stage itself.

2. The Petitioner Sabai claiming that they are the owners of agricultural lands in Survey No.84/2 to an extent of 0.57.00 Hectares and Survey No.84/3 to an extent of 0.94.00 Hectares totally to an extent of 1.51.00 Hectares situated in Perur Village, Coimbatore District has come before this Court that though they have grown up the coconut trees in the

said land and established coconut thope, which was permitted to be used by the 3rd respondent for license for a period of six years commencing from 11.03.2004 to 10.03.2010. The 3rd respondent herein illegally taken the possession of the thope by an act of encroachment and sought for tenancy right before the Tahsildar, Perur. Already a writ petition to issue Mandamus directing the 2nd respondent to consider the petition given to the 2nd respondent on 27.07.2016 is pending in W.P.No.5174 of 2018. While so, when the 2nd respondent has taken up the petition for enquiry, the 3rd respondent has thought fit delay the enquiry and to squat over the property, given a representation to the Tahsildar for issuing cultivating tenancy right. Hence, the present writ petition to quash the notice sent by the 1st respondent dated 21.01.2013 inviting parties interested to produce documents in their favour in order to consider the application given by the 3rd respondent.

3. On perusing the affidavit and the impugned notice this Court finds that the 1st respondent with an intention to verify to credential of the 3rd respondent had directed the petitioner and others to produce all the relevant documents in their favour to look into the application given by the 3rd respondent. This Court finds no illegality in the said attempt of the 1st respondent calling for the petitioner and others for enquiry. It is the right of the petitioner to produce all the documents available with them and prevail upon the 1st respondent to reject the request of the 3rd respondent. Instead of participating in the enquiry filing writ petition after five months of causing notice appears to be an attempt to avoid enquiry to be conducted by the Revenue officials at the field level.

4. If the petitioner has any objection about the request made by the 3rd respondent, the right course of action is to participate in the enquiry and establish his right. By-passing the said course of action and filing a writ petition is untenable.

5. Hence, this writ petition is dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

rp1

To

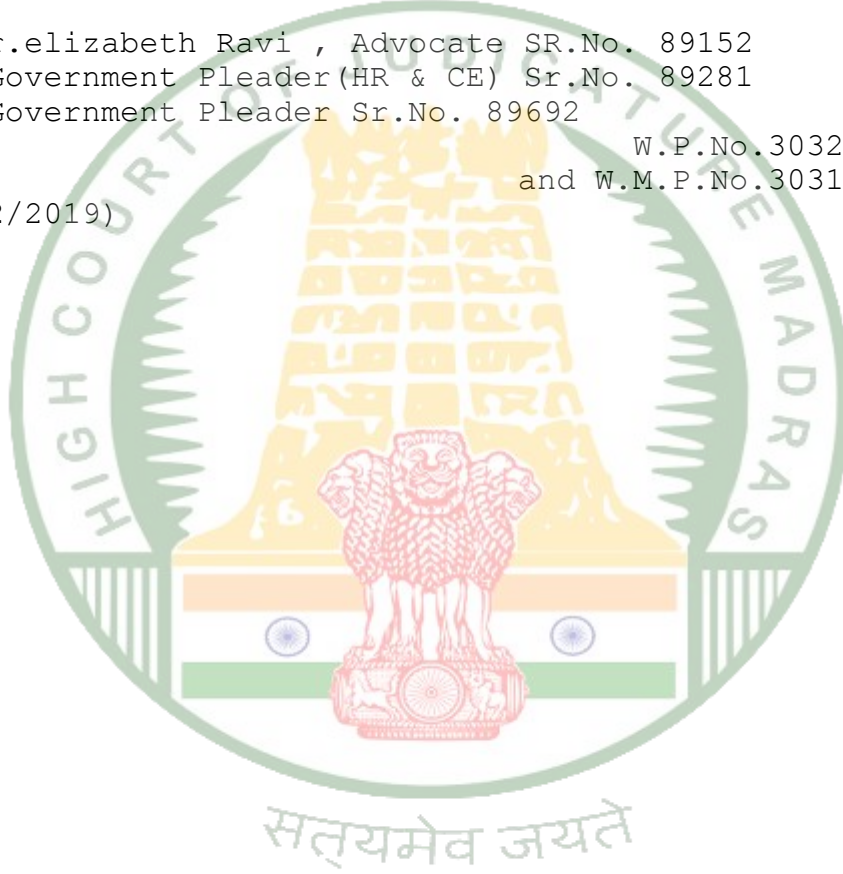
1.The Tahsildar and Record Officer,
(Tenancy Records),
Perur,
Coimbatore-641 010.

2.The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
Dr.Balasundaram Road,
Coimbatore-641 018.

+1cc to Mr.elizabeth Ravi , Advocate SR.No. 89152
+1 cc to Government Pleader(HR & CE) Sr.No. 89281
+1 cc to Government Pleader Sr.No. 89692

W.P.No.30321 of 2019
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A.SK(02/12/2019)



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