

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:23.01.2019

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THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE DR.JUSTICE ANITA SUMANTH

Writ Petition No.19444 of 2018

- 1 A.Arul
S/o. Angamuthu No. 1/ 119 East Street
Mangalore Village Veppur Taluk Cuddalore
District - 606108. Petitioner
- Vs
- 1 The State of Tamil Nadu
Rep. by its The Secretary to the Government
of Tamil Nadu HR & CE Administration Dept.
Fort St. George Chennai - 600009
- 2 The Secretary to Government
Of Tamil Nadu Revenue Department Fort St.
George Chennai
- 3 The Commissioner
HR & CE Administration Departments No. 119
Uthamar Gandhi Salai Nungambakkam Chennai - 34
- 4 The Joint Commissioner
Office of Joint Commissioner HR & CE
Administration Departments Villupuram
- 5 The Assistant Commissioner
Office of the Assistant Commissioner HR &
CE Administration Departments Cuddalore
District - 607001
- 6 The District Collector
The Collectorate Office Cuddalore &
Cuddalore District
- 7 The District Revenue Officer
The Collectorate Office Cuddalore &
Cuddalore District

- 8 The Revenue Divisional Officer
Office of the Revenue Divisional Officer
Virudhachalam Cuddalore District
- 9 The Tahsildar
Veppur Taluk Office Veppur Cuddalore
District
- 10 R.Balamani
W/o. Ramadass
- 11 R. Subramaniyan
S/o. Ramadass
- 12 R.Kumar
S/o. Ramadass
- 13 R.Saravanan
S/o. Ramadass
- 14 R.Hari
S/o. Ramadass
- 15 R.Kalimuthu
S/o. Ramadass
- 16 R.Sumathi
S/o. Ramadass Address for respondents 10 to
15 are Bazaar Street Mangalore Village
veppur Taluk Cuddalore District - 606108
..... Respondents

PETITION filed under Article 226 of The Constitution of India praying for issuance of Writ of Mandamus directing the respondents from 1 to 9 to retrieve the lands of 2 cents in Survey No. 686/ 4 parted out of Survey NO. 686/1 located at village of Mangalore Veppur Taluk Cuddalore district belong to Sri Varatharaja Perumal Temple from the respondents 10 to 16 and remove encroachment of illegal construction by considering the petitioners representation dated 16.06.2018 and 17.06.2018.

For Petitioner : No appearance

For Respondents: Mr.Maharajan,
Standing Counsel - R1, 3, 4 and 5
Mr.J.Pothiraj, Spl.G.P. - R2 and R6 to R9
Mr.S.R.Sundar - R13 & 14
No appearance - R10, 12, 15 & 16
Service Awaited - R11

O R D E R

(Order of the Court was made by DR.VINEET KOTHARI,J)

None present for the petitioner. Heard Mr.Maharajan, learned Special Government Pleader for respondents 1, 3, 4 and 5 and Mr.J.Pothiraj, learned Special Government Pleader for respondents 2, 6, 7, 8 and 9 and Mr.S.R.Sundar, learned counsel for private respondents 13 and 14.

2. The petitioner had objected to the alleged encroachment by respondent Nos.10 to 16, who are the legal representatives of one Late Ramadass, to the extent of 2 cents in S.No.686/4 allegedly parted out of S.No.681/1 located at Village of Mangalore, Veppur Taluk, Cuddalore District allegedly belonging to Sri Varatharaja Perumal Temple.

3. Upon issuance of notice, the respondents have filed their counters in the Court.

4. Learned counsel for private respondents 13 and 14 Mr.S.R.Sundar, contended before us that the present PIL Petition is a frivolous one and the respondents/Revenue Department has issued patta in favour of the said Late Sri.Ramadass, whose legal representatives are arrayed as respondents 10 to 16, in S.No.374, which was described in the Revenue Record as 'Natham Land', open to be allotted to the private respondents in accordance with the Rules. He further submitted that a Civil Suit in O.S.No.150 of 2014 was filed by respondent No.3 on behalf of the said Temple for declaration and injunction against these private respondents and the same has been dismissed for want of prosecution and as of now the respondents are not aware of any such restoration of the Suit by the learned Trial Court. He therefore submitted that the patta issued in favour of Late.Sri.Ramadass is valid and has not been assailed by anybody so far.

5. On the contrary, learned counsel appearing for the HR & CE Department Mr.Maharajan, urged before us that the Patta has been illegally issued in favour of the private respondents and the Temple Board is taking steps for restoration of the Suit filed for declaration and injunction.

6. Learned Government Counsel also submitted that patta has been issued on the said Natham Land in favour of the private respondents. Certain site photographs have been produced before us for perusal.

7. Heard the learned counsel for the respondents, in the absence of the learned counsel for the petitioner, who was absent on the previous day i.e., on 14.12.2018 also and even

though he had appeared before the Court on the last day, i.e., on 21.12.2018, though on which date the learned Government Counsel was directed to produce relevant documents and Revenue Record for the year prior to 1974 showing the nature of land in question, which accordingly has been produced and the said record shows prima facie that it is a "Natham Land".

8. We are of the opinion that the present PIL Writ Petition is not a bonafide petition and involves determination of question of facts in respect of the civil rights of the parties, who are co-respondents in the present PIL Petition, namely, Temple Board and the private respondents, legal representatives of Late Sri.Ramadass.

9. Therefore, we of the clear opinion that such disputes cannot be determined in the PIL jurisdiction and the present Writ Petition therefore deserves to be dismissed.

10. We would have imposed costs on the petitioner for filing such frivolous petition involving private rights of the parties. However, in the absence of the learned counsel for the petitioner today before the Court as well as the petitioner himself, we refrain from imposing any costs on the petitioner in this regard.

11. In the result, this Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1 The State of Tamil Nadu
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of Tamil Nadu HR & CE Administration Dept.
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- 9 The Tahsildar
Veppur Taluk Office Veppur Cuddalore
District

+1cc to Mr.K.Moorthy, Advocate, S.R.No.5564 (20/03/2019)

+1cc to Special Government Pleader(HR & CE), S.R.No. 7244, 5497

Writ Petition No.19444 of 2018

SJ(CO)
GN(11/02/2019)

सत्यमेव जयते

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