



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 23.04.2019
CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

W.P. (MD) .No.8921 of 2019
and
W.M.P. (MD) .No.6906 of 2019

V.Ramamoorthi

... Petitioner

Vs.

1. The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Tiruchirapalli.
2. The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Tiruchirapalli.
3. The District Collector,
Pudukottai,
Pudukottai District.
4. The Block Development Officer,
Karambakudi Panchayat Union,
Karambakudi,
Pudukottai District.
5. The Government High School,
represented by its Headmaster,
Pallavarayanpathai Post,
Karambakudi Taluk,
Pudukottai District.
6. Pallavarayanpathai Panchayat,
represented by its President,
Pallavarayanpathai,
Karambakudi Taluk,
Pudukottai District.

7. M.Marikkanu

... Respondents

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents 1 and 2 to take action for removal of encroachments in temple land comprised in Survey No.611/1 and Survey No.748/1, No.12, Pallavarayanpathai Village, Karambakudi Taluk, Pudukottai District which belonged to Arulmighu Mahavaradha Ganapathai



Thirukovil, on the basis of the petitioner's representation, dated 18.02.2019.

For Petitioner : Mr.M.Suresh
For R1 to R6 : Mr.V.R.Shanmuganathan
Special Government Pleader

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O R D E R

(Order of the Court was made by **K.KALYANASUNDARAM, J.**)

Heard Mr.M.Suresh, learned counsel for the petitioner and Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing for the respondents 1 to 6.

2. By consent, the writ petition is taken up for final disposal.

3. The petitioner claims to be a hereditary trustee of Arulmigu Magavaradha Ganapathi Thirukovil in Pudupatti Village, Pallavarayanpathai in Pudukottai District and he was appointed by the Joint Commissioner by exercising power under Section 54(1) of the Hindu Religious and Charitable Endowments Act.

4. The grievance of the petitioner is that the temple property comprised in Survey Nos.748/1 and 611/1 have been encroached by the local Panchayat and a Government School was constructed therein. It is further stated that the suit in O.S.No.68 of 2007 instituted by the petitioner before the District Munsif Court, Pudukottai was dismissed on 23.11.2010, on the ground that the Civil Court has no jurisdiction and he is having an alternative remedy under Section 78 r/w. 108 of H.R. & C.E. Act.

5. Mr.M.Suresh, learned counsel for the petitioner by referring the undertaking affidavit of the petitioner, dated 15.04.2019, would submit that the temple was maintained only from the income of the said land and there is no hundyal income for the said temple and therefore to maintain the temple and to do daily poojas and festivals, a fair rent can be fixed by the Commissioner, H.R. & C.E. Department. It is further stated that if a suitable direction is given to the Commissioner, the petitioner would be satisfied.

6. Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing for the respondents would state that the Commissioner, H.R. & C.E. Department is the competent authority for redressal of the grievance of the petitioner and he is ready to consider if proper application is made by the petitioner.

7. In the light of the submissions of the learned counsels on either side, this Court, without going into the merits of the matter, directs the petitioner to give a proper application before the Commissioner, H.R. & C.E. Department, by enclosing a copy of



this order and on such compliance, the Commissioner shall consider the same and pass orders on merits and in accordance with law, after providing opportunity to all necessary parties, within a period of three months thereafter.

8. With the above observations, the writ petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

sd/
Assistant Registrar(writs)

/True Copy/

Sub Assistant Registrar

To

1. The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Tiruchirapalli.
2. The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Tiruchirapalli.
3. The District Collector,
Pudukottai,
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4. The Block Development Officer,
Karambakudi Panchayat Union,
Karambakudi,
Pudukottai District.
5. The Headmaster ,
Government High School,
Pallavarayanpathai Post,
Karambakudi Taluk,
Pudukottai District.
6. The President,
Pallavarayanpathai Panchayat,
Pallavarayanpathai,
Karambakudi Taluk,
Pudukottai District.
7. The Commissioner,
H.R. & C.E. Department,
Nungambakkam, Chennai 34



+1 CC to SPL GP (SR-62131[F] dated 24/04/2019)

+1 CC to Mr.M.SURESH, Advocate (SR-62009[F] dated 24/04/2019)

W.P. (MD) .No.8921 of 2019
23.04.2019

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