

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.09.2020

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

Writ Petition Nos.5174 of 2018 & 10328 of 2019

and WMP. No.10872 of 2019

WP.No.5174 of 2018

Coimbatore Genagdiga
Okkaliga Perur Madam Thoppu Paribalana Sabai,
Perur, Coimbatore,
Rep. by its President D.Sivasubramanian,
Perur Main Road, Coimbatore-10. ... Petitioner

Vs

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

2.S.Shanmugam ... Respondents

PRAYER: PETITION filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus, directing the 1st respondent to take up the petition dated 27.07.2016 filed by the petitioner to the 1st respondent in respect to the lands in Survey Nos.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 and Taluk, Coimbatore District followed by the reminder dated 27.03.2017 and 11.10.2017 made as against the 2nd respondent under section 78 of the Hindu Religious and Charitable Endowment Act and to pass appropriate orders on merits.

WP.No.10328 of 2019

S.Shanmugam

...Petitioner

Vs

1.Joint Commissioner of HR and CE Department,
Coimbatore Division,
Dr.Balasundaram Road, Coimbatore-18.

2.Coimbatore Kengadiga Okkaligar Perur Madam
and Thoppu Paribalan Sabai,
Perur,
Rep. by its President
Coimbatore.

3.The Tahsildar/Tenancy Record Officer,
Perur Coimbatore Dt. ... Respondents
(R3 impleaded vide order dated 23.4.2019 made in
WMP.No.12339/19 in WP.No.10328/2019)

PRAYER: PETITION filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, calling for the records relates to the impugned Communication dated 31.10.2018 Vide Letter No.Misc. Petition No.97/2018 Aal issued by the 1st respondent and quash the same as illegal and unconstitutional.

For Petitioner in W.P.No.5174 of 2018&
R2 in W.P.No.10328 of 2019 : Ms.Elizabeth
For Petitioner in W.P.No.10328 of 2019
& R2 in W.P.No.5174 of 2018 : Mr.A.V.Raja
For R1 in both W.Ps. : No Appearance
For R3 in W.P.No.10328 of 2019 : R.P.Pratap Singh,
Govt. Advocate

C O M M O N O R D E R

Records are produced today. Both the writ petitions relate to rival claims advanced by the petitioner in W.P.No5174 of 2020 (R2 W.P.No.10328 of 2019) and the petitioner in W.P. No.10328 of 2020 R2 (R2 in W.P.No.5174 of 2018) in regard to the property at survey Nos. 84/2, 84/3 and 84/4 admeasuring 9.5 acres (land in question).

2. T.R.1 of 2019 had been filed by petitioner in W.P.10328 of 2019 before the Tahsildar during the pendency of which the impugned notice dated 31.10.2018 had been issued by the Joint Commissioner (HR&CE)/R1. The notice had then come to be challenged in the writ petition. Even during the pendency of

the writ petition T.R.1 of 2019 had been disposed on 20.05.2020. Unfortunately, this order has been served on the petitioner only on 10.09.2020. None of the parties appear to have been aware of this position on the earlier hearings of these writ petitions, as a result that this Court, on 10.07.2020, had recorded the submissions of Mr.R.P.Pratap Singh, learned Government Advocate, appearing for the Tahsildar that TR.1 of 2019 will be disposed by the Tahsildar within a period of eight weeks. This submission is evidently incorrect in so far as TR.1 of 2019 had already been disposed. Had this position been properly ascertained, much judicial time could have been saved.

3. Be that as it may, seeing as T.R.1 of 2019 has been disposed on 20.05.2020 and the order stated to have been served on the petitioner in WP.No.10328 of 2019 on 10.09.2020, nothing survives in WP.No.5174 of 2018, where the prayer is for disposal of T.R.1 of 2019 and the same is closed.

4. As far as W.P.No.10328 of 2019 is concerned, the prayer is for a quash of communication dated 31.10.2018 vide Letter No. Miscellaneous Petition 97 of 2018 issued by the Joint Commissioner HR&CE, Coimbatore. This is only a notice calling upon the petitioner to appear for an enquiry in regard to the lands in question and in fact the case of the petitioner is that the proceedings initiated under Section 78 would have to await the fate of his petition under Section 5 (1) of the Tamil Nadu Agricultural Land Record of Tenancy Rights Act, 1969 before the Tahsildar-cum-Tenancy Record Officer.

5. With the disposal of T.R.1 of 2019, there is no impediment for the continuance of the proceedings initiated by the Joint Commissioner under Section 78. Let fresh notice be issued by the Joint Commissioner/R1 and proceedings be completed expeditiously after hearing both the petitioners, and in accordance with law. W.P.No.10328 of 2019 is disposed in the aforesaid terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

vs

To

1.Joint Commissioner of HR and CE Department,
Coimbatore Division,
Dr.Balasundaram Road, Coimbatore-18.

2.The Tahsildar/Tenancy Record Officer,
Perur Coimbatore Dt.

+lcc to M/s.Elizabeth Ravi, Advocate SR.30348

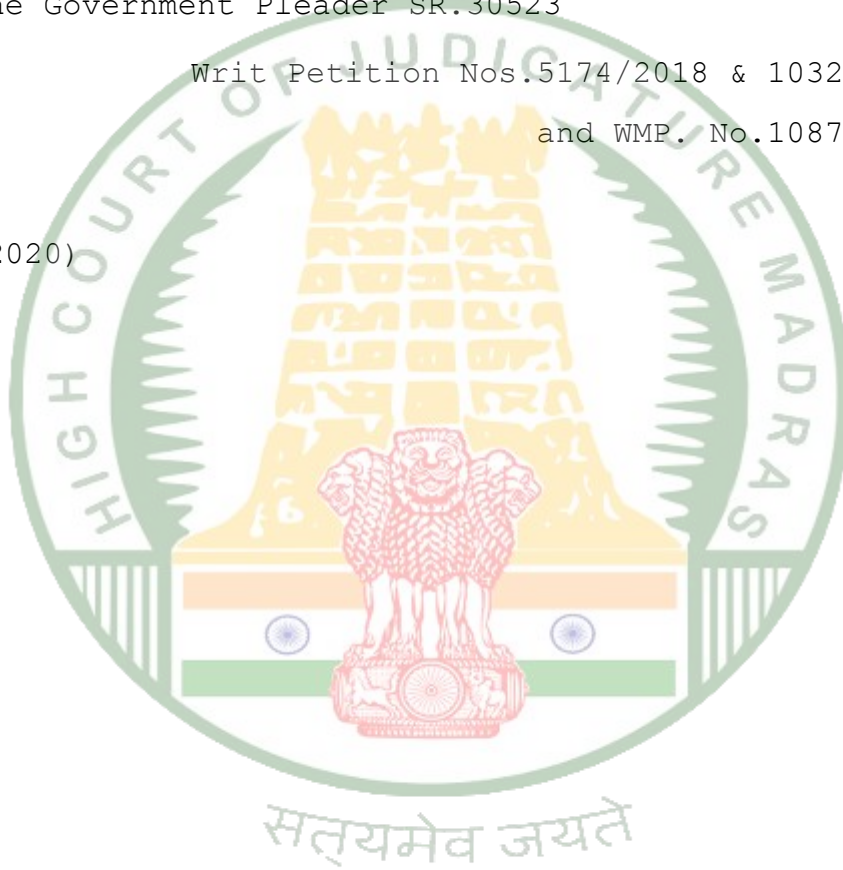
+lcc to the Government Pleader SR.30523

Writ Petition Nos.5174/2018 & 10328 of 2019

and WMP. No.10872 of 2019

KK(CO)

CB(05/11/2020)



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