

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.10.2020

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.14419 of 2020

and WMP. No.17907 of 2020

S.M.Nagappan

... Petitioner

Vs.

1. The District Collector,
Salem District.
2. The Tahsildar,
Edapadi Taluk,
Salem District.
3. The Block Development Officer,
Edapadi Taluk, Salem District.
4. Mr.A.R.Mani
5. K.K.Mani

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents 1 to 3 to protect the land in an extent of 0.98.5 acres situated in S.No.310, Kurumbapatty Village, Edapadi Taluk, Salem District as an objectionable land and to prevent the same for being used/converted for any other purpose other than for the uses of Arulmigu Krishnaswamy Perumal Kovil Purposes.

For Petitioner : Mr.G.Selvi George

For Respondents : Mr.Mr.Kumaresh Babu, - R1 to R3

Additional Advocate General of Tamil Nadu
Assisted by Mr.E.Balamurugan
Special Government Pleader

ORDER

This Writ Petition has been filed for the issue of a Writ of Mandamus directing the respondents to consider the representation made by the petitioner and to prevent the government from using or converting the temple's land for any other purpose other than for the temple purpose.

2. Heard Mrs.Selvi George, learned counsel for the petitioner and Mr.Kumaresh Babu, learned Additional Advocate General.

3. The admitted case of the petitioner is that the land in question has been shown to be Government lands even in the revenue records. According to the petitioner, this land is being used for a long time by the villagers as access to the temple and also for the purpose of conducting functions and poojas during festival time. The proceedings of the Tahsildar dated 27.07.2018 was also brought to the notice of this Court wherein the Tahsildar has stated that the property in question is a Government land and that the same cannot be permitted to be encroached by anyone and if any construction or development is made in the land, proper permission must be taken from the concerned

authority, failing which action will be taken in accordance with law.

4. The proceedings of the Tahsildar does not show that the land belongs to the temple. The petitioner claiming himself as Dharmakarthā of the temple, wants the Government not to utilise the land for any purpose.

5. There is not a single scrap of paper to establish that the land belongs to the temple. The revenue records clearly show that the land in question belongs to the Government. It is always left to the Government to utilise the land for any purpose as it deems fit and no one else can claim any right over the same. If according to the petitioner, the land is used by the temple for a long time and any right has been acquired over the same, the temple can only approach the appropriate civil Court and claim for such a right. Even, if such a right is claimed, it will involve appreciation of facts and it will require oral and documentary evidence.

6. The petitioner has approached a wrong Court claiming for rights, which cannot be decided by this Court. This Court exercising powers conferred under Article 226 of Constitution of India cannot go into such disputed of facts. More particularly, as it involves appreciation of facts.

7. In view of the above discussion, this Court does not find any ground to entertain this Writ Petition. Accordingly, the same is dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

09.10.2020

Internet: Yes/No

Index: Yes/No

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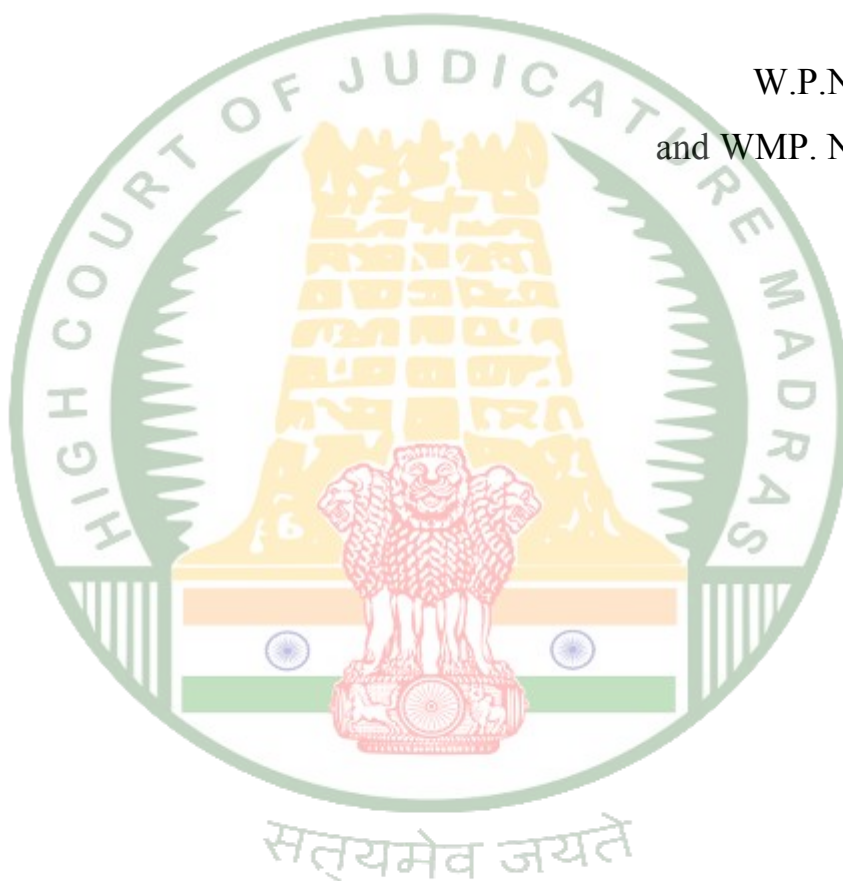
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N.ANAND VENKATESH,J.

Rli



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