

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.01.2020

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No.35657 of 2019
and
W.M.P.No.36565 of 2019

A/m Sivagamiamman Udanurai Ambalavanar Thirukoil,
Represented by its Managing Trustee,
M.Mahendran,
Having Office at No.1, Kulakarai Street,
Kamarajapuram Nagar, Ambattur,
Chennai-600 053. ... Petitioner

...Vs...

- 1.The District Collector,
Chennai District,
Singaravelan Maligai,
Rajaji Salai, Chennai-600 001.
- 2.The Special Tahsildar,
Town Survey and Settlement,
Ambattur, Chennai-53.
- 3.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Nungambakkam, Chennai-34.
- 4.The Deputy Director, सतयमेव जयते
Employees State Insurance Corporation (ESIC)
MTH Road, Ambattur, Chennai-53. .. Respondents

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PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the third respondent to consider the representation dated 04.11.2019 pending on the file of the third respondent within a stipulated time frame fixed by this Court.

For Petitioner : Mr.S.Vijayaganesh

For Respondents : Mrs.P.Rajalakshmi for R1 and R2
Additional Government Pleader
Mr.Maharaja for R3

O R D E R

Ms.P.Rajalakshmi, learned Additional Government Pleader takes notice for respondents R1 and R2 and Mr.Maharaja, learned counsel takes notice for the third respondent. By consent of the parties, the main writ petition is taken up for final disposal at the admission stage itself.

2.The petitioner has filed the present Writ Petition for issuance of a Writ of Mandamus, directing the third respondent/the Assistant Commissioner, Hindu Religious and Charitable Endowments Department, to consider the representation dated 04.11.2019 pending on the file of the third respondent.

3.The case of the petitioner is that he is the Managing Trustee of the Sivagamiamman Udanuri Ambalavanar Thirukoil, in Chennai-600 053. It is stated that the temple is 2000 years ancient, non-listed temple, managed by private trust namely "Arulmigu Sivagamiamman Udanurai Ambalavanar Trust" registered vide Trust Deed bearing Document No.60/2015 at SRO Ambattur dated 04/03/2015. It is stated that the temple is built during the regime of Lord Krishnadevaraya Kingdom under the Leadership of Kalathi Raja and Petha Raja. The petitioner temple owned and possessed several acres of land and a temple pond made of stone steps in all four boundaries. The lands and the temple pond surrounding the temple were slowly encroached and the temple pond was filled with mud to destroy the identity of the pond. It is stated that the second respondent namely the Special Tahsildar, Town Survey and Settlement, Ambattur, had issued a notice dated 11.11.2019 in Na.Ka.No.165/2019 stating that the lands belongs to the fourth respondent, namely, the Deputy Director, Employees State Insurance Corporation (ESIC) at Ambattur. On 12.11.2019, the petitioner gave an objection and he also gave a representation dated 04.11.2019 to the first respondent namely the District Collector, Chennai-600 001.

4.Heard both sides and perused the materials available on record.

5.The Tashildar has to determine the nature of the land based on the revenue records. If the petitioner claims title, then, he will have to go before the Civil Court claiming tittle, if he deems appropriate. The third respondent namely The

Assistant Commissioner, Hindu Religious and Charitable Endowments Department, if he has no objection with regard to the claim that the land belongs to the temple then he must support the case of the temple and has to act accordingly. At any rate the nature of the land has to be decided by the Tahsildar on the basis of documents produced and revenue records.

6. Considering the facts and circumstances of this case, a direction is issued to the petitioner to give a fresh representation along with the documents and other materials to the second respondent/Special Thasildar on or before 24.01.2020 and the second respondent is directed to consider his representation and conduct an enquiry based on the documents and materials submitted by the petitioner and also issue notice to any other party and then pass detailed order on or before 28.02.2020 on merits and in accordance with the law.

7. With the above directions the Writ Petition is disposed of. No Costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Chennai District,
Singaravelan Maligai,
Rajaji Salai, Chennai-600 001.
2. The Special Tahsildar,
Town Survey and Settlement,
Ambattur, Chennai-53.
3. The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Nungambakkam, Chennai-34.
4. The Deputy Director,
Employees State Insurance Corporation (ESIC)
MTH Road, Ambattur, Chennai-53.

+1 cc to Government Pleader Sr.No. 1343
+1 cc to Spl Government Pleader HR&CE Sr.No. 1029
+1cc to Mr.Vijaya ganesh , Advocate SR.No. 241

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and

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A.SK(24/02/2020)