



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.10.2020

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THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) Nos.13698 and 13699 of 2020

P.Boomathi ...Petitioner in W.P. (MD) No.13698 of 2020
R.Ramanathan ...Petitioner in W.P. (MD) No.13699 of 2020
-Vs-

- 1.The Secretary,
Hindu Religious and Charitable Endowment Department,
Government of Tamil Nadu,
Secretariat, Fort St. George,
Chennai-600 009.
 - 2.The Commissioner,
Hindu Religious and Charitable Endowment Department,
119, Nungambakkam High Road,
Chennai-600 034.
 - 3.The District Collector,
Karur, Karur District-639 007.
 - 4.The District Revenue Officer,
Collectorate Buildings, Karur-639 007.
 - 5.The Revenue Divisional Officer,
Karur, Karur District.
 - 6.The Tahsildar,
Manmangalam Taluk,
Karur District.
 - 7.The Executive Officer,
Arulmigu Balasubramaniasamy Thirukovil,
Vennaiimalai-639 006.
Manmangalam Taluk,
Karur District.
- ...Respondents (Both Cases)

Common Prayer: Writ Petitions are filed under Article 226 of Constitution of India, to issue a writ of Mandamus, directing the second respondent to consider the petitioners' request under Section 34 of the Hindu Religious and Charitable Endowment Act in the light of the order passed by this Court in W.P.(MD) No.64 of 2018 vide its order dated 23.10.2019 on the basis of the petitioners' representation dated 16.09.2020.



For Petitioner: Mr.N.Karthik Kanna
For R1 and R2 : Mr.K.P.Narayanakumar,
Special Government Pleader.
For R3 to R6 : Mr.M.Rajarajan,
Additional Government Pleader.
For R7 : Mr.P.Athimoolapandian
(in both Writ Petitions)

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COMMON ORDER

Heard the learned counsel on either side.

2.The petitioners have applied to the authorities for considering their cases under Section 34 of the Hindu Religious and Charitable Endowment Act.

3.The learned counsel appearing for the petitioners draws my attention to the order dated 23.10.2019 in W.P.(MD)No.64 of 2018. Paragraph Nos.34 to 39 of the said order reads as follows:-

"34.The very object the lands that have been donated by the devotees has been defeated in this case. It is not only in this temple at Karur and it is almost a common affair in all the temples under the control of the HR & CE Department. The very object of establishing the HR & CE Department is to maintain the endowments, but the case in hand expose the manner in which the properties are protected. Under Section 29 of the HR & CE Act, the religious institution has to prepare and maintain the registers, but it appears the registers are not maintained properly. The HR & CE Department alone cannot be blamed and it appears the Revenue Officials have also colluded with the encroachers and have created the records in favour of the encroachers.

35.It is not in dispute that the private respondents are in long and absolute possession over the aforesaid properties and it is the case of the petitioner as well as the 8th respondent that the 8th respondent temple alone is the title holder and all the lands referred in this writ petition belonged to the temple and are service inam lands.

36.The judgments cited above are squarely applicable to the facts in case on hand and by applying the decisions cited supra and also in view of the stand taken by the temple and the District Collector, Karur, this Court passes the following order:

1.Insofar as the first and second categories are concerned, the revenue records are in the name of the temple and if there are any encroachments the temple administration has to initiate appropriate proceedings under Section 78 of HR & CE Act and all the encroachments



shall be removed within a period of six months from the date of receipt of a copy of this order.

2. Insofar as the third category is concerned, wherein settlement pattas were given in the name of the individuals, the temple has to work out its remedies by filing a suit within a period of three months from the date of receipt of the copy of the order and the same has to be disposed of by the concerned Court within a period of one year thereof. The fourth respondent as well as the Commissioner, Archives and Historical Research Department shall provide all relevant records of the lands in issue to the HR & CE Department within two months from the date of receipt of copy of this order enabling them to initiate a suit as directed.

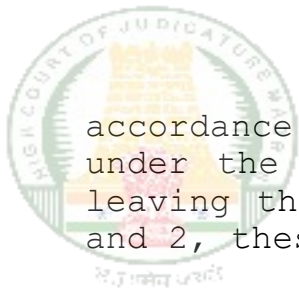
3. Insofar as the fourth category is concerned the revenue records have been altered to the name of the individuals during UDR, and it is now reported that the DRO, after due enquiry, has passed orders restoring pattas to the temple and therefore, the temple authorities have to initiate proceedings under Section 78 of HR & CE Act and take further action. If the parties are aggrieved, it is for them to challenge the same, in the manner known to law, by approaching appropriate forum and in any event, if any appeal is filed, the same shall be decided within a period of six months thereof.

4. Insofar as the fifth category is concerned, the revenue records have been altered into the name of the individuals after UDR and now it is reported that the RDO has conducted an enquiry and restored the pattas in the name of the temple and therefore, the temple is at liberty to restore their properties by initiating proceedings under Section 78 of HR & CE Act and take further action. If anybody is aggrieved by the order of the RDO, it is open to them to challenge the same before the competent authority, and if any such appeal is filed, the same shall be disposed by the concerned forum on merits within a period of six months from thereof.

37. With the above observation the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed."

4. The learned Special Government Pleader appearing for the Hindu Religious and Charitable Endowment Department as well as the learned Standing Counsel appearing for the Temple would point out that the proceedings under Section 78 of the said Act have already been taken.

5. I must clarify that this Court has not issued any positive mandate as such. The Court is only calling upon the respondents 1 and 2 to consider the petition mentioned representations in



accordance with law. If the petitioners are treated as tenants under the Temple, then there cannot be any objection. Therefore, leaving the matter entirely to the discretion of the respondents 1 and 2, these Writ Petitions are disposed of. No costs.

(*) This petition having been posted on 02.12.2020 under the caption "To Clarify the order dated 01.10.2020" and made herein, in the presence of the above said Advocate, this court made the following order:-

Registry to issue a revised order copy by adding the following sentence:-

"Such an order will be passed within a period of eight weeks from the date of receipt of a copy of this order. These Writ Petitions are disposed of. No costs."

Sd/-

Assistant Registrar (CO)

(*) Amended as per order of this Hon'ble Court dated 02.12.2020

Sd/-

Assistant Registrar (Writs)

// True Copy //

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Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

(*) to be substituted the order already despatched on 13.10.2020

1. The Secretary,
Hindu Religious and Charitable Endowment Department,
Government of Tamil Nadu,
Secretariat, Fort St. George,
Chennai-600 009.

2. The Commissioner,
Hindu Religious and Charitable Endowment Department,
119, Nungambakkam High Road, Chennai-600 034.



3.The District Collector,
Karur, Karur District-639 007.

4.The District Revenue Officer,
Collectorate Buildings,
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5.The Revenue Divisional Officer,
Karur, Karur District.

6.The Tahsildar,
Manmangalam Taluk,
Karur District.

+1 CC to M/s.GP (SR-18942[F] dated 05/10/2020) (SR-19157[F] dated
06/10/2020)

W.P. (MD) Nos.13698 and 13699 of 2020
01.10.2020

srk(CO)

KK(12.10.2020) 5P 8C

TR(07.12.2020) 5P 8C