



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

W.A.No.1418 of 2021
and
C.M.P.Nos.8796 & 8799 of 2021

1.A.Pargunnam,
S/o.Ayyanar,
Door No.19B,
Mariamman Kovil Street,
Manakadu, Hasthampatty,
Salem - 7.

2.A.Shanmugam,
S/o.Anai Gounder,
No.16-A, South Street,
Manakadu, Hasthampatty,
Salem Town, Salem - 636 007.

...Appellants

Vs.

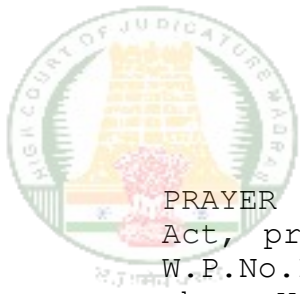
1.M.Iyyanar,
S/o.Muthunani Gounder,
Oorgounder/Trustee,
Arulmigu Cheliamman and Mariamman Temple,
Manakadu, Salem - 7.

2.The District Collector,
Salem District, Salem.

3.The Revenue Divisional Officer,
Salem, Salem District.

4.The Thasildar,
Taluk Office,
TVS Colony, Hasthampatty,
Salem.

... Respondents



PRAYER : Writ Appeal filed under Clause 15 of Letters Patent Act, praying to set aside the order dated 09.10.2020 passed in W.P.No.13165 of 2020 on the file of this Court and allow the above Writ Appeal.

Prayer in W.P.No.13165 of 2020:

Writ Petition filed under Section 226 of Constitution of India praying for issuance of Writ of Mandamus to call for the records pertaining to the notice of the 3rd respondent issued vide proceedings in Na.Ka.No.459/2020 A2 dated 27.02.2020 and quash the same and consequently forbear the respondents herein from conducting survey or issuing patta in favour of any third parties in respect of the temple lands measuring an extent of 85.5 cents in Survey No.1358 of Hasthampatty Village, Salem Taluk & District, except issuing patta in the name of the temple on proper application from the Oorgaounders viz., M. Ayyanar, Palansiamy Gounder and Thangavel of the Mariamman and Chelliamman Temple, Manakkadu, Salem Taluk and District.

For Appellants :Mr.A.Ilayaperumal

For Respondents:Mr.R.Neelakandan, State
Government Counsel for R2 to R4.

J U D G M E N T

(Judgment of the court was made by N.KIRUBAKARAN.J.,
The matter was heard through "Video Conference".

2.Third parties have come before this Court challenging the order passed by the Learned Single Judge at the instance of the First Respondent who challenged the proceedings of the Tahsildar, TVS Colony, Hasthampatty, Salem dated 27.02.2020, with regard to the conducting of survey or issuing patta in favour of any third parties in respect of the temple lands measuring to an extent of 85.6 cents in Survey No.1358 of Hasthampatty Village, Salem Taluk & District except issuing patta in the name of the Temple.

3.The case of the First Respondent before the Learned Single Judge is that the aforesaid property belongs to the Temple and the Temple is having title for the past seventy five years. However, the third parties are claiming right over the property and therefore, the First Respondent has come before this Court praying to forbear the Respondents to conduct survey, pursuant to the notice dated 27.02.2020, which was issued to conduct survey, contending that it is a Temple property and no third party should be given patta.



4. Taking into consideration of the contention of the First Respondent, the Learned Single Judge directed the First Respondent to give objection along with relevant documents to the Fourth Respondent/ The Tahsildar, TVS Colony, Hasthampatty. Further, it is directed that if the Fourth Respondent decides to conduct any enquiry or survey on the request of the third party, the Writ Petitioner / First Respondent should be put on notice and he should be heard before taking decision. Challenging the said order, this Appeal has been filed.

5. Though, Mr. A. Ilayaperumal, Learned Counsel for the Appellants would submit that the First Respondent / Writ Petitioner is prohibited from acting as Oorgounder in Hasthampatti Villagae Mitta Survey No. 100, Municipal Survey No. 1358 by decree and Judgment dated 19.09.1990, he is still claiming to be the Oorgounder. He would submit that taking advantage of the order passed by the Learned Single Judge, the First Respondent should not claim any benefit and hence, this Appeal has been filed.

6. Heard Mr. A. Ilayaperumal, Learned Counsel for the Appellants and Mr. R. Neelakandan, Learned State Government Counsel appearing for the Respondents 2 to 4.

7. It is seen from the records that the Learned Single Judge has only directed the First Respondent to give objection along with relevant documents to the Fourth Respondent/ The Tahsildar, TVS Colony, Hasthampatti and further, it is directed that if the Fourth Respondent decides to conduct any enquiry or survey on the request of the third party, the Writ Petitioner / First Respondent should be put on notice and he should be heard before taking decision. Hence, there is no positive direction and it is only to accept the objections given by the First Respondent. When that is the position, the Appellants cannot have any objection with regard to the directions given by the Learned Single Judge. It is seen that neither positive direction nor any right has been conferred upon the First Respondent or the right of the Appellants has been affected.

8. Therefore, the Appeal fails and the same is dismissed. If the Appellants have got any grievance, they can only give objections regarding the claim of the First Respondent and after obtaining the objections from the Appellants as well as from the First Respondent, the Fourth Respondent shall make a joint enquiry after giving notice to them as well as to the other parties.



9. With the above directions, this Writ Appeal is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ay/sai

To

1. The District Collector,
Salem District, Salem.
2. The Revenue Divisional Officer,
Salem, Salem District.
3. The Thasildar,
Taluk Office,
TVS Colony, Hasthampatty,
Salem.

+lcc to the Government Pleader Sr.27549
+lcc to Mrs.A.Ilayaperumal, Advocate Sr.27488

W.A.No.1418 of 2021

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srg 16/07/2021