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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2021

CORAM :

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

W.P. No. 16814 of 2021
and
W.M.P. No. 17791 of 2021

R.Gopi
Vs. ...Petitioner

1. The District Collector
Kancheepuram District
Kancheepuram.
2. The District Revenue Officer
Kancheepuram District
Kancheepuram.
3. The Tahsildar
Kundrathur Taluk
Kundrathur
Kancheepuram District.
4. The Fit Person/Executive Officer
Arulmigu Karuppaneeswarar Temple
Nallur - 602 109.
Kundrathur Taluk
Kancheepuram District.
5. The Sub Inspector of Police
C4-Somangalam Police Station
Somangalam
Kancheepuram District.
6. E.Mani
7. E.Asogan
8. E.Raghupathi

...Respondents

PRAYER : Petition filed under Section Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the Respondents 1 to 5 to remove the encroachments made by the Respondents 6 to 8 in the Temple land in S.No.1C/1, situated at Nallur Village, Kundrathur Taluk, Kancheepuram



District consequently direct the Second Respondent to pass an order with regard to classification of Temple land and issuance of patta based on the proceedings of the Fourth Respondent dated 13.07.2021.

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For Petitioner : Mr. M.R.Jothimanian

For Respondents : Mr. P.Balathandayutham
State Government Counsel

ORDER

(Order of the Court was passed by N.KIRUBAKARAN, J)

The matter was heard through ''Video Conference''.

2. The Petitioner has come before this Court seeking Writ of Mandamus, directing First to Fifth Respondents to remove encroachments made by Sixth to Eighth Respondents in the Temple land comprised in S. No. 1C/1, situated at Nallur Village, Kundrathur Taluk, Kancheepuram District and consequently, directing Second Respondent to pass an order to re-classify the Temple land and for issuance of patta, based on the proceedings of the Fourth Respondent, dated 13.07.2021.

3. Mr. M.R.Jothimanian, Learned Counsel for the Petitioner submits that the Petitioner, who is one of the devotees of Arulmigu Karuppaneewarar Temple (hereinafter referred to as 'the Temple' for short) has filed this Writ Petition to safeguard the subject property of the Temple, which is being encroached upon by Sixth to Eighth Respondents. Further he would submit that the Fourth Respondent has already submitted an application dated 13.07.2021 for re-classification and for issuance of patta in respect of the subject property. Apart from a direction to remove the encroachment made in the subject property, an assurance was given for issuance of patta in respect of the subject property measuring an extent 60 meter X 60 meter = 3600 square meter in favour of the Temple, which is in possession.

4. However Mr. P.Balathandayutham, Learned State Government Counsel appearing for the Official Respondents would submit that the encroachments made in the subject property have been removed and it is a Meikkal Pormabokey. In this regard, the Temple has already given a representation for issuance of patta. Further he would submit that without reclassification of the subject property, the Temple cannot seek for issuance of patta for the same.



5. Heard Mr. M.R.Jothimanian, Learned Counsel for the Petitioner and Mr.P.Balathandayutham, Learned Counsel appearing for the First to Fifth Respondents, and perused the materials placed on record.

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6. Even according to the Government, the property is a grazing land, comprised in Survey No. 1C/1, Nallur Village, Kundrathur Taluk, Kancheepuram District and the Temple is in possession of the subject property. When the Temple is in possession of the subject property, its possession should be safeguarded. Therefore, the Petitioner seeks appropriate police protection for the purpose of raising compound wall in and around the subject property/Temple land.

7. However, even a tress passer cannot be dispossessed without following the due process of law. Therefore, till the Temple is in possession of the subject property, its right should be safeguarded, as admitted by the Official Respondents that there was an encroachment, which had already been removed. Since it is represented that attempts are being made to encroach upon the Temple property, it is appropriate to permit the Temple to put up compound wall in order to safeguard the subject property. In view of that, on 23.08.2021 at 10.30 a.m., the Temple shall start constructing the compound wall in and around the subject property. Further, the Fifth Respondent police is directed to give appropriate police protection for raising the compound wall in respect of the subject property and the protection shall continue till its completion.

8. Since the Temple has already given a representation for re-classification and for issuance of Patta in respect of subject property comprised in Survey No. 1C/1 and the same shall be considered and orders would be passed at the earliest, after giving sufficient opportunity to Parties concerned.

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

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

Maya



To

1. The District Collector
Kancheepuram District
Kancheepuram.
2. The District Revenue Officer
Kancheepuram District
Kancheepuram.
3. The Tahsildar
Kundrathur Taluk
Kundrathur
Kancheepuram District.
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Kancheepuram District.
5. The Sub Inspector of Police
C4-Somangalam Police Station
Somangalam
Kancheepuram District.

+2ccs to Mr.M.R.Jothimanian, Advocate, S.R.No.40693,40644
+1cc to the Government Pleader, S.R.No.41506

W.P. No. 16814 of 2021

SS[co]
NSK 08/09/2021