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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 15.12.2021

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.P.No.26574 of 2021

R.Sekar

...Petitioner

-vs-

1.The District Collector
Thirupathoor District
Thirupathoor - 635 601.

2.The Commissioner
Hindu Religious and Charitable Endowments Department
Nungambakkam, Chennai - 600 034.

3.The Asst. Commissioner
Hindu Religious and Charitable Endowments Department
Thirupathoor - 635 601.

4.The Tahsildar
Nattrampalli Taluk
Thirupathur District - 635 852.

5.The Executive Officer
(Arulmigu Perumal Swamy Thirukoil, Kathari Village)
at Arulmighu Dharmarajar Temple
Thirupathoor - 635 601.

6.T.Viswanathan

7.Varada Raji

8.Shanmugam

9.Ram Kumar

10.Lattu @ Samudi

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents 1 to 4 herein, to remove the encroachment in the lands belonging to 5th respondent- Arulmighu Perumal Swamy Thirukoil, Kathari Village, Thirupathoor District, in an extent measuring 2.80.50 hectares in Survey Nos.63/4, 84/2-11 of Kathari Revenue Village, Nattrampalli Taluk, Thirupathoor District, bearing Patta No.268, in pursuant to the petitioner's representation dated 30.09.2021.



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For petitioner : Mr.R.Selvakumar
For respondents : Mr.M.Alagu Goutham
Government Advocate for RR1 & 4
Mr.S.Yashwanth,
Additional Government Pleader
for RR2, 3 & 5

ORDER

(Order of the Court was made by K.KALYANASUNDARAM, J.,)

The petitioner has come up with this writ petition for issuance of writ of mandamus, directing the respondents 1 to 4 to remove the encroachment in the land belonging to the 5th respondent temple, viz., Arulmigu Perumal Swamy Thirukoil, Kathari Village.

2.The petitioner would claim that he is a devotee and worshipper of Arulmighu Perumal Swamy Thirukoil, Kathari Village, Nattrampalli Taluk and the temple is being administered by the Executive Officer. The temple owns land to an extent of 2.80.50 hectares and patta was also issued in favour of the temple, the 5th respondent herein.

3.It is the case of the petitioner that the land belongs to the 5th respondent was donated by Balammal of Kalthunthi Jamin in the year 1890. However, in the year 1940, one of the Poojaris belongs to the 5th respondent temple sold the land to Panjammal of Kathari Village. Which was challenged by the village people and they also succeeded in the litigation.

4.The learned counsel for the petitioner, Mr.R.Selvakumar, would submit that the respondents 6 to 10 and their family members have encroached upon the temple land and put up construction over the same. Hence, a representation was given for removal of the encroachment, but no action has been taken so far. Hence the present writ petition. He further added that it would suffice, if a direction is issued to the official respondents to consider the representation of the petitioner, in accordance with law.

5.The learned Additional Government Pleader, Mr.S.Yashwanth, appearing for the respondents 2, 3 and 5 on instructions would submit that the litigation initiated against the encroachers has reached its finality and the official respondents are ready to remove the encroachment, by considering the representation of the petitioner. It is also stated that as per Section 78 of the Hindu Religious and Charitable Endowments Act, the Joint Commissioner has to pass orders for removal of encroachment.



6. In the light of the limited prayer sought in this writ petition and the submissions of the learned counsel on either side, this Court without expressing any opinion on the merits of the matter directs the respondents 2, 3 and 4 to consider the representation of the petitioner and take action in accordance with law, after providing ample opportunity to all the necessary parties. The 3rd respondent shall forward the relevant records as per Section 78 (ii) of the Hindu Religious and Charitable Endowments Act, to the concerned Joint Commissioner, Hindu Religious Charitable Endowments Department, for taking necessary action. The said exercise shall be completed within a period of six months from the date of receipt of a copy of this order.

7. With the above direction and observation, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector
Thirupathoor District
Thirupathoor - 635 601.

2. The Commissioner
Hindu Religious and Charitable Endowments Department
Nungambakkam, Chennai - 600 034.

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4. The Tahsildar
Nattrampalli Taluk
Thirupathur District - 635 852.

+1cc to Mr. R. Selvakumar, Advocate SR. No. 66840
+1cc to Government Pleader SR. No. 67475

W.P.No.26574 of 2021

SS (CO)
PR (21/01/2022)