



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2021

CORAM:

THE HONOURABLE Mr. JUSTICE M.SUNDAR

W.P.Nos.31523, 31524 & 31525 of 2017
and

W.M.P.Nos.34641, 34642, 34643, 34644, 34645,
34646, 34647, 34648 & 34649 of 2017

W.M.P.Nos.4090, 4091 & 4092 of 2018

M.Kandasamy	...Petitioner in WP.No.31523/2017
P.Loganathan	...Petitioner in WP.No.31524/2017
A.Chidambaram	...Petitioner in WP.No.31525/2017

Vs.

1. The Commissioner,
Hindu Religious & Charitable Endowments Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai - 600 034.

2. The Assistant Commissioner,
HR & CE Department, Namakkal Division,
O/o. The Assistant Commissioner,
Hindu Religious & Charitable Endowments Department,
Namakkal District.

3. The Fit Person/Inspector,
A/m.Athanoor Mariyamman Chellandiamman Temple,
Karumapuram, Thiruhengodu Taluk,
Namakkal District.

...Respondents in all WPs

Common Prayer : Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the entire records pertaining to the impugned permission dated 17.12.2015 granted by the 1st respondent in its proceedings in Na.Ka.No.68443/2015 V1 and quash the same.

For Petitioners : Mr.V.Srikanth [in all WPs]

For Petitioners : Mr.N.Subramaniyan
[for Impead Petition in all WPs]



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For Respondents : Mr.NRR.Arun Natarajan
Government Advocate
[for R1 & R2 in all WPs]

: Mr.T.S.Vijaya Raghavan
[for R3 in WP.Nos.31523 &
21524/2017]

COMMON ORDER

This common order will govern the captioned three main writ petitions and captioned 'writ miscellaneous petitions' ('WMPs' for the sake of brevity) therein.

2. Proceedings made by this Court in the listing on 28.09.2021 captures the crux of the lis and the trajectory of the matter. This 28.09.2021 proceedings of this Court reads as follows:

'W.P.Nos.31523, 31524 and 31525 of 2017' shall be referred to as 'I WP, II WP and III WP' respectively for the sake of convenience and clarity.

2. All the three captioned writ petitions have been filed assailing a notice dated 17.12.2015 issued by the first respondent vide proceedings bearing reference No. ந.க./68443/2015^{வி} permitting auction of lands belonging to 'Arulmighu Athanoor Mariamman, Chellandiamman Periyamma Vinayagar Temples at Karumapuram Village, Tiruchengode Taluk, Namakkal District' [hereinafter 'said Temple' for the sake of convenience and clarity].

3. Mr.V.Srikanth, learned counsel on record for writ petitioner in all the three captioned writ petitions submits that the writ petitioner in I WP (M.Kandasamy, S/o.Muthusamy) is no more and he needs to get instructions and revert to this Court.

4. Mr.NRR.Arun Natarajan, learned State counsel is before this Court on behalf of respondents 1 and 2 in all the three writ petitions. Mr.T.S.Vijayaragavan, learned counsel is before this Court on behalf of third respondent (Fit person) in I and II WPs. Mr.N.Subramaniyan, learned counsel who has joined this Virtual hearing submits that he has taken out three separate implead petitions namely, W.M.P.Nos.4090, 4091 and 4092 of 2018 in I, II and III WPs respectively. Learned counsel submits that the implead



petitions have been taken out by a Trust which qualifies as a person having interest qua said temple.

5. In the light of the submission made by learned counsel for writ petitioner in all the three writ petitions the implead petitions also will be considered in the next listing. List one week hence. List on 05.10.2021."

3. Today Mr.V.Srikanth, learned counsel on record for writ petitioner in all the three captioned writ petitions, Mr.NRR.Arun Natarajan, learned State counsel for respondents 1 and 2 in all the three writ petitions and Mr.T.S.Vijaya Raghavan, learned counsel for third respondent (Fit Person/Inspector) in W.P.Nos.31523 & 31524 of 2017 are before this Court.

4. Adverting to paragraph 3 of aforementioned 28.09.2021 proceedings, learned counsel for writ petitioner submits that insofar as W.P.No.31523 of 2017 is concerned, he has no instructions to take steps pursuant to the demise of the lone writ petitioner M.Kandasamy S/o.Muthusamy. Therefore, W.P.No.31523 of 2017 and WMPs therein viz., W.M.P.Nos.34641, 34642 & 34643 of 2017 abate. This W.P.No.31523 of 2017 and WMP.Nos.34641, 34642 & 34643 of 2017 are dismissed as abated.

5. The above scenario leaves us with the remaining two main writ petitions and the WMPs therein.

6. Paragraph 9 of the counter affidavit filed by the third respondent (Fit Person/Inspector) is significant and the same reads as follows:

'9.I submit that assuming but not admitting that the Petitioner is entitled to protection and is to be evicted only as per the provisions of the Public Trust Act, then there is a corresponding obligation on the Petitioner that is to be in possession of the lands besides doing cultivation. Thus in the absence of possession of the lands with the petitioner, the petitioner cannot seek any right under the Public Trust Act. I submit that the petitioner has abandoned the lands long back and is not doing any cultivation and hence the Writ Petition is liable to be dismissed and the petitioner is not to be shown any indulgence by this Hon'ble Court.'

7. No rejoinder affidavit has been filed by the writ petitioners disputing the factual position that the writ petitioners are not in possession. This means that the writ



petitioners are not entitled to the benefit of Public Trust Act, 1961 [The Tamil Nadu Public Trusts (Regulation of Administration of Agricultural Lands) Act, 1961]. To be noted, this position is on a demurrer as it is the stated position of the writ petitioners that they are hereditary trustees/poosaries of said Temple. To be noted, the short forms used in the previous proceedings dated 28.09.2021 (extracted and reproduced supra) continue to be used in this order also. A hereditary trustee cannot be a lessee in lands belonging to said Temple in which he or she is a hereditary trustee. This becomes a disqualification by itself. In this regard, learned State counsel advertent to the counter affidavit submits that proceedings have already been initiated against the writ petitioners and they have been dislodged. Owing to the narrow compass on which captioned writ petitions turn, it may not be necessary to delve further into those aspects of the matter. Suffice to say that this draws the curtains on writ petitioners' challenge (in main writ petitions) to proceedings which merely permit public auction of lease of lands concerned.

8. This leaves us with the implead petitions viz., W.M.P.Nos.4090, 4091 & 4092 of 2018 taken out by Mr.N.Subramaniyan in I WP, II WP and III WP respectively. In the light of the narrative thus far, this Court is not inclined to accede to the prayer of the writ petitioners and therefore, these implead petitions are closed without expressing any opinion on the merits of the same, so that the same can be gone into on a later date if need arises in further proceedings if any.

9. Owing to all that have been set out supra, this Court has no hesitation in coming to the conclusion that proceedings which is in the nature of a permission for conducting public auction which have been assailed in the captioned writ petitions fail and the sequitur is captioned writ petitions are to be dismissed.

10. Ergo, captioned II WP and III WP viz., W.P.Nos.31524 & 31525 of 2017 are dismissed. W.M.P.Nos.34644, 34645, 34646, 34647, 34648 & 34649 of 2017 are also consequently dismissed. To be noted, I WP viz., W.P.No.31523 of 2017 has already been dismissed as abated. There shall be no order as to costs.

Sd/-
Assistant Registrar

True Copy//

Sub Assistant Registrar



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A/m.Athanoor Mariyamman Chellandiamman Temple,
Karumapuram, Thiruhengodu Taluk,
Namakkal District.

+lcc to Mr.T.S.Vijaya Raghavan, Advocate, S.R.No.55188
+lcc to the Government Pleader, S.R.No.55929

W.P.Nos.31523, 31524 & 31525 of 2017

VBM[co]
NSK 23/11/2021