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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2021

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THE HONOURABLE Mr. JUSTICE G.K.ILANTHIRAIYAN

WP.No.26441 of 2017 and
WMP.No.28137 of 2017

V.Padmanabhan

... Petitioner

Vs

1.The District Collector,
Kanchipuram,
Kanchipuram District

2.The Executive Officer,
St Thomas Mount cum Pallavaram,
Cantonment Board, Pallavaram

3.The Tahsildar,
Alandur Taluk,
Alandur, Chennai-16

4.Indira Gandhi Center for Atomic Research
Represented by its Director,
Department of Atomic Energy,
Kalpakkam

... Respondents

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records in proceedings Na.Ka.No.38576/2010/N2 dated 19.06.2017 on the file of the first respondent and quash the same as illegal, incompetent and wholly without jurisdiction.

For Petitioner : Mr.V.Raghavachari

For Respondents

For R1 & 3 : Mr.P.Baladhandayutham,
Special Government Pleader

For R2 : Mr.C.Mohan
for M/s.King & Partridge

For R4 : Mr.J.Madana Gopal Rao



ORDER

This writ petition is filed to issue a Writ of Certiorari calling for the records in proceedings Na.Ka.No.38576/2010/N2 dated 19.06.2017 on the file of the first respondent and quash the same as illegal, incompetent and wholly without jurisdiction.

2. Heard, Mr.V.Raghavachari, the learned counsel for the petitioner, Mr.P.Baladhandayutham, Special Government Pleader appearing for the respondents 1 & 3, Mr.C.Mohan, the learned counsel for the second respondent, and Mr.J.Madana Gopal Rao, the learned counsel for the fourth respondent.

3. The case of the petitioner is that his family has been in management and administration of the Bajanai Koil at Pallavaram and the said temple is situated in the land comprised in survey No.753, Pallavaram Village, Alandur Taluk, Kancheepuram to an extent of 4792 sq.ft. and it is classified as 'temple poramboke'. Due to certain issues between the family members, they filed suit in OS.No.1023 of 1984 on the file of the District Munsif Court, Poonamallee for permanent injunction. It shows the existence of the temple in the subject land. Since the temple was in dilapidated condition, the petitioner made representation in the year 2008 before the second respondent seeking permission to renovate the temple. The petitioner also made representation before the first respondent and the same was forwarded to the second respondent. Since no order or direction was issued and as such the petitioner submitted representation before the Chief Minister Cell seeking permission to renovate the temple. The petitioner also filed writ petition before this Court in WP.No.12553 of 2016 and by order dated 04.04.2016, this Court directed the third respondent to consider the representation of the petitioner and pass orders within a period of eight weeks from the date of receipt of copy of the order. Thereafter, the first respondent passed order dated 19.06.2017 stating that the subject land is classified as 'temple poramboke' comprised in survey No.753 admeasuring 0.04.5 hectares and now to be transferred in favour of the fourth respondent herein. It was objected by the petitioner and made representation before the Chief Minister Cell. It was rejected for the reason that the said land is Government Poramboke land and as such the Government of Tamilnadu transferred in favour of the fourth respondent functioning under the Union of India.

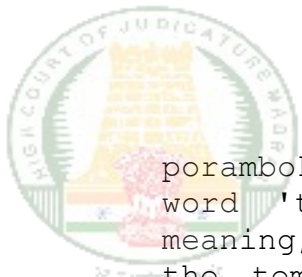
4. The learned counsel for the petitioner would submit that this Court specifically directed the third respondent to



consider the request of the petitioner and without considering the said request, the first respondent passed the impugned order, that too, without giving any opportunity of hearing to the petitioner. The petitioner and his family members were hereditary trustees of the said temple i.e. Bajanai Koil and the land itself is classified as 'temple poramboke' and as such it belongs to the temple.

5. On perusal of the counter filed by the fourth respondent, revealed that for the purpose of setting up of various nodal facilities of the Department of Atomic Energy i.e. Regional Offices, Guest Houses, Meeting / Conference Hall for visiting officials, Delegates and Dignitaries, etc., the Department of Atomic Energy acquired 6.129 acres of Defence land located at Pallavaram Cantonment area, Chennai in the month of July 2010 after following due process. After acquisition of the said land, encroachers from the said land were removed with the help of State Authorities. In and around the said land, the compound wall was erected and the said land located in two portions. The subject land is located in the middle of the vicinity of the fourth respondent and it was felt that the said piece of land if acquired for departmental activities, a sufficient space would be available for departmental activities and security of the upcoming facilities of the Department of Atomic Energy. On verification from the State revenue records, it was reported that the said land is classified in the records as 'temple poramboke land'. But no structure of the temple and its related activities were found thereupon. Therefore, the fourth respondent approached the first respondent for alienation of the said poramboke land to the Department of Atomic Energy. In turn, the first respondent by letter dated 10.12.2012 had informed that the proposal for transfer of land has been sent to the Principal Secretary cum Commissioner of Land Administration vide letter dated 25.11.2012. Accordingly, it was recommended to transfer the land in favour of the fourth respondent.

6. On instruction from the third respondent, the learned Special Government Pleader submitted that on field inspection of the subject property, it is lying vacant and there is no structure of temple and there is no evidence to show such temple was there. That apart, the petitioner failed to establish his right over the said Bajanai Koil either he is a trustee of the said temple or any other service holder of the said temple. Except that representation dated 16.12.2008, there is no piece of evidence produced by the petitioner to establish his right over the said temple. Admittedly, the subject land is classified as 'temple poramboke'. The nature of the land being temple



poramboke, it cannot be treated as equal to 'temple site'. The word 'temple site' has to be assigned only the restricted meaning, which is also the nature meaning i.e. the site on which the temple or its appurtenances are situated and the actual premises of the temple. It will not include other properties belonging to the temple. If the legislature had intended to give a wider meaning and application and intended to include the lands or properties belonging to the temple, then the legislature could have as well used the expression 'temple lands' or 'temple properties'. The expression 'temple poramboke' can only signify one of the species of poramboke lands. It is certainly a property which is under the control of the Government and amenable to the provisions of the Land Encroachment Act. Admittedly, the petitioner is not in possession and enjoyment of the subject property. Therefore, the petitioner first failed to establish his right over the subject property. Secondly, the subject property is only 'temple poramboke' and it is not belonging to the Bajanai koil.

7. In view of the above, this Court finds no infirmity or illegality in the order passed by the first respondent. As such, the writ petition is devoid of merits and liable to be dismissed. Accordingly, this writ petition is dismissed. Consequently, connected miscellaneous petition is closed. No order as to costs.

SD/-
ASSISTANT REGISTRAR

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SUB ASSISTANT REGISTRAR

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To

1. The District Collector,
Kanchipuram,
Kanchipuram District.
2. The Executive Officer,
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3. The Tahsildar,
Alandur Taluk,
Alandur, Chennai-16.



4.The Director,
Indira Gandhi Center for Atomic Research
Department of Atomic Energy,
Kalpakkam.

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+1cc to M/s.V.Ragavachari, Advocate Sr.69171
+1cc to M/s.King & Partridge, Advocate Sr.69192
+1cc to the Government Pleader Sr.69539

WP.No.26441 of 2017

vsn II[co]
srg 11/01/2022