



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.07.2021

CORAM

THE HONOURABLE MR.JUSTICE T. S. SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P. (MD) Nos.9779 and 10074 of 2013

and

M.P. (MD) Nos.2 of 2013 and 1 & 2 of 2014 in W.P. (MD) No.9779 of 2013

W.P. (MD) No.9779 of 2013:

Arulmigu Subramaniasamy Kovil
Valagam Vijaparikal Sangam,
Tiruchendoor - 628 215,
Tuticorin District, Rep. by its Secretary
S.Neelavannan

... Petitioner

Vs.

1. The District Collector,
Tuticorin District,
Tuticorin.
2. The Executive Officer,
Special Grade Town Panchayat,
Tiruchendoor,
Tuticorin District.
3. The Thasildar,
Tiruchendoor Taluk,
Tuticorin District.
4. The Joint Commissioner and Executive Officer,
Arulmigu Subramaniasamy Thirukovil,
Tiruchendoor, Tuticorin District.
5. Manalmedu M.Suresh,
Ex. Municipal Councilor,
Tiruchendoor,
Tuticorin District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the 1st respondent herein on 19.04.2013 in Na.Ka.No.D4/49907/2012 and the consequential impugned order passed by the 2nd respondent herein on 05.06.2013 in Na.Ka.No.339/2012 and quash the same.

For Petitioner

: Mr.R.Vijayakumar

For Respondent Nos.1 & 3

: Mr.A.K.Manickam

Standing Counsel for Government



For Respondent No.2 : Mr.K.Mahesh Rajan
For Respondent No.4 : Mr.T.Srinivasa Ragavan
For Respondent No.5 : Mr.R.Gowri Shankar

W.P. (MD)No.10074 of 2013:

Arulmigu Subramaniaswamy Devasthanam,
Tiruchendur through its
Executive Officer/Joint Commissioner,
Thiruchendur,
Tuticorin District.

... Petitioner

Vs.

1. The District Collector,
Tuticorin District,
Tuticorin.
2. The Executive Officer,
Special Grade Panchayat,
Thiruchendur,
Tuticorin District.
3. Manalmedu M.Suresh, Ex.M.C.,
Ex. Organizer unified D.M.K. Youth Forum,
Thiruchendoor,
Tuticorin District.
4. The Revenue Divisional Officer,
Tuticorin.
5. The Tahsildar,
Thiruchendur Taluk,
Tuticorin District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, call to for the records and to quash the proceedings of the 1st respondent in his order in Na.Ka.No.D4/49907/2012 dated 19.04.2013 and the same received by the Petitioner Temple on 23.04.2013.

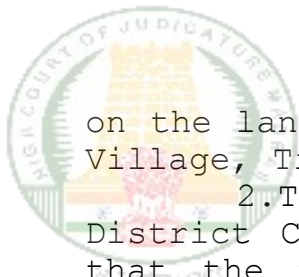
For Petitioner : Mr.T.Srinivasaraghavan
For Respondent Nos.1, 4 & 5 : Mr.A.K.Manickam
Standing Counsel for Government
For Respondent No.2 : Mr.S.Sathish Kumar
For Respondent No.3 : Mr.R.Gowri Shankar

* * * * *

COMMON ORDER

(Order of the Court was made by T. S. SIVAGNANAM, J.)

These Writ Petitions have been filed by Arulmigu Subramaniaswami Devasthanam, Thiruchendur, presently represented by its Executive Officer/Joint Commissioner, and an Association formed by the licensees of the said Temple in respect of the shop buildings



on the land comprised in Survey Nos.119 to 124 of Keela Tiruchendur Village, Tiruchendur Taluk, Thoothukudi District.

2.The order impugned in the Writ Petitions was passed by the District Collector, Thoothukudi District dated 19.04.2013, holding that the property in question is a Government property and the Temple has no right over the property and consequently, there is a threat of eviction of the licensees from the shops.

3.When W.P.(MD) No.9779 of 2013 was entertained by the Division Bench, by order dated 19.06.2013, interim stay was granted by taking note of the submissions made by the Executive Officer of the Special Grade Town Panchayat of Thiruchendur that they will not take possession till the disposal of the suit in O.S.No.50 of 2017. The said suit was filed by the Temple for a declaration of their title over the property. It was initially pending before the learned District Munsif, Thoothukudi in O.S.No.159 of 2009. Subsequently, the case has been transferred to District Munsif, Tiruchendur and re-numbered as O.S.No.50 of 2017 and the learned counsel for the petitioner association submits that argument in the suit has been completed and judgment has been reserved.

4.In any event, the title has to be decided in the civil proceedings and the Temple has rightly approached the Civil Court and the District Collector and the Executive Officer of the Panchayat are parties to the suit. The parties may abide by the judgment passed by the Trial Court. It is needless to say that there may be appeal against the judgment of the Trial Court as well as Second Appeal. Therefore, unless and until the title issue is decided, issuance of such order is not sustained because it is a virtual action rather than a decision to the title to the property. Therefore, the respondents should wait for the out come and finality of the civil proceedings.

5.For the above reasons, the Writ Petitions are allowed and the impugned orders are set aside on the technical ground that the title to the property be decided in the civil suit pending on the file of the District Munsif, Thiruchendur and subject to the result of the civil proceedings, it is open to the respondents to proceed further in accordance with law. No costs. Consequently, connected Miscellaneous Petitions in W.P.(MD) No.9779 of 2013 are closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sj

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

<https://hcservices.ecourts.gov.in/hcservices/>



To

1. The District Collector,
Tuticorin District,
Tuticorin.

2. The Revenue Divisional Officer,
Tuticorin.

3. The Tahsildar,
Thiruchendur Taluk,
Tuticorin District.

+1 CC to M/s.SPL GP (SR-21736[F] dated 08/07/2021)

W.P. (MD) Nos. 9779 and 10074 of 2013
07.07.2021

RC (19.07.2021) 4P-5C