



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **04.06.2021**

CORAM

**THE HONOURABLE MRS.JUSTICE J.NISHA BANU**

W.P(MD)No.9613 of 2021

Murugammal

... Petitioner

Vs.

1.The Joint Commissioner,  
Office of the Joint Commissioner,  
HR&CE Department,  
Thiruvanthapuram Road,  
Palayamkottai, Tirunelveli District.

2.The Deputy Commissioner,  
Office of the Deputy Commissioner,  
HR&CE Department,  
Thiruvanthapuram Road,  
Palayamkottai, Tirunelveli District

... Respondents

**PRAYER:** Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to number and dispose the petition dated 03.07.2017 and filed on 06.07.2017 filed by petitioner under Section 63 of Hindu Religious Charitable Endowments Act, 1959 on merits.

|                 |                                                          |
|-----------------|----------------------------------------------------------|
| For Petitioner  | : Mr.A.Arumugam                                          |
| For Respondents | : Mr.P.Thillak Kumar,<br>Standing Counsel for Government |

**ORDER**

Mr.P.Thilak Kumar, learned Standing Counsel for the Government, accepts notice on behalf of the respondents 1 and 2.

2. By consent, the Writ Petition is taken up for final disposal at the admission stage itself.

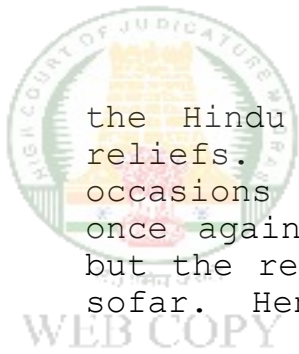
3. This writ petition has been filed by the petitioner seeking for issuance of a Writ of Mandamus, directing the respondents to number and dispose the petition dated 03.07.2017 and filed on 06.07.2017 filed by petitioner under Section 63 of the Hindu Religious Charitable Endowments Act, 1959

4. The case of the petitioner is that Sri Subramaniaswami Temple, Tiruchendur, claimed that it is the absolute owner of the properties of Nanja and Punja Lands in Patta No.277, Kumarapuram Village, Radhapuram Taluk, Tirunelveli Jilla and cancelled the lease deed which was executed in favour of one Arasammal. But, the



properties originally belonged to the family of one Sivasubramaniapillai and Vallinayagampillai. The petitioner's father, Vallimayil Nadar entered into a permanent lease agreement in respect of the disputed properties, with the said Sivasubramaniapillai and Vallinayagampillai on 24.01.1951 and the disputed properties belonged to the lessor ancestrally, which is evidenced by the partition deed dated 31.03.1915 in their family. According to the petitioner, the partition deed specifically states that a Kattalai was created in favour of the Temple by the ancestors and only a portion of income from the properties were to be utilized for the purpose of conducting a few festivals in the Temple and therefore the petitioner claimed that only a limited charge was created in favour of the Temple, not the entire property. As per the lease agreement, permanent lessee was for performing Kattalai for which portion of income from the properties for the Temple was used and the remaining portion of income was retained by the permanent lessors. According to the petitioner, the said Arasammal and herself are the legal heirs of the Vallimayil Nadar, who died about 40 years ago. After demise of her father, they are the permanent lessees, as per the partition deed dated 24.01.1951, which was executed in favour of her father by the said Sivasubramaniapillai and Vallinayagampillai. Patta was wrongly mutated in the name of the Temple during UDR proceedings. The property register of the Temple does not include the disputed properties and it does not show that the temple was in possession and enjoyment of the property either directly or through the tenants prior to the lease deed executed by Arasammal. Most of the lands were dry, so water from the well could be drawn easily. Therefore, electricity service connection was found to be absolutely necessary for irrigation of lands. When Arasammal approached the EB officials seeking electricity service connection, the EB officials directed her to approach the temple authorities for obtaining no objection certificate. Only for the purpose of getting electricity service connection, Arasammal executed a lease deed in favour of the temple and this lease deed does not vest title to the property in temple. According to the petitioner, Arasammal and herself filed two suits in O.S.No.38 of 2008 and O.S.No.16 of 2012 before the Principal District Munsif Court, Valliyoor. The temple filed its written statements denying the title of the permanent lessors Sivasubramaniapillai and Vallinayagampillai. According to the petitioner, the temple blindly claimed that the disputed properties belonged to temple. The Principal District Munsif Court, Valliyoor, dismissed both the suits holding that the civil Court has no jurisdiction to decide the questions whether (i) a mere charge has been created over the properties in favour of the temple or absolute title and (ii) absolute dedication was made in favour of temple in the Kattalai. However, there is no kattalai deed in writing. The nature and character of kattalai have been culled out only from the partition deed and the permanent lease deed and the First Appellate Court has also confirmed the judgment and decree of the trial Court.

<https://hccases.pcaonline.in/cases/> filed a petition on 06.07.2017 under Section 63 of



the Hindu Religious and Charitable Endowments Act, 1959 seeking reliefs. The said petition was repeatedly returned on several occasions stating that the Kattalai deed was not produced. Finally, once again the petitioner represented the petition on 02.06.2019, but the respondents have neither returned the petition nor numbered so far. Hence, this Writ Petition came to be filed.

5. The learned counsel for the petitioner would state that the petition has been filed under Section 63 of the Hindu Religious Charitable Endowments Act, 1959 and the petition has not been numbered till date. It has been returned several times and the petitioner has been repeatedly representing the petition.

6. The learned Standing Counsel for the respondents would state that now, the competent authority to consider the petition is the Joint Commissioner, Tuticorin.

7. Since the learned Standing Counsel for the respondents would state that the competent authority is the Joint Commissioner (HRNC), Tuticorin, the respondents are directed to return the papers to the petitioner, so that the petitioner shall represent the same before the Joint Commissioner (HRNC), Tuticorin and on representation, the Joint Commissioner (HRNC), Tuticorin shall pass appropriate orders, on merits and in accordance with law, within a period of twelve weeks from the date of filing of the petition by the petitioner before him.

8. With the above direction, the writ petition is disposed of. No Costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

**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.

sm

To:-

1.The Joint Commissioner,  
Office of the Joint Commissioner,  
HR&CE Department,

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



Thiruvanthapuram Road,  
Palayamkottai,  
Tirunelveli District.

2.The Deputy Commissioner,  
Office of the Deputy Commissioner,  
HR&CE Department,  
Thiruvanthapuram Road,  
Palayamkottai,  
Tirunelveli District.

3.The Joint Commissioner (HRNC),  
Tuticorin.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate ( SR-18876[F] dated  
07/06/2021 )

+1 CC to M/s.SPL GP ( SR-18939[F] dated 07/06/2021 )

**Order made in**  
**W.P (MD) No.9613 of 2021**

**04.06.2021**

GS (17.06.2021) 4P 6C