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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.1442 of 2022

1. V.Srinivasa Reddy
2. V.Papi Reddy
- 3.V.Madeva Reddy

...Petitioners

Vs

1. The District Collector,
Krishnagiri District,
Krishnagiri.
2. The Tahsildar,
Shoolagiri Taluk,
Krishnagiri District.
3. The Commissioner,
Hindu Religious and Charitable Endowments,
No.119, Uthamar Gandhi Salai,
Thousand Lights West, Nungambakkam,
Chennai - 600 034.
4. The Joint Commissioner,
Hindu Religious and Charitable Endowments,
No.4/15, Gandhi Nagar, 8th Cross Street,
Thiruvannamalai - 606 601.
5. The Assistant Commissioner,
Hindu Religious and Charitable Endowments,
No.1/304-4, Rajaji Nagar, 3rd Cross Street,
Royakottai Road,
Krishnagiri -2.
6. The Inspector,
Hindu Religious and Charitable Endowments,
Shoolagiri & Taluk,
Krishnagiri District.

... Respondents



PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, Calling for the records of the Respondents, Particularly the 6th Respondents impugned Auction Notice dated 10.01.2022 and quash the same and consequentially confirm the Petitioners right over the properties, situated B.S.Thimmasndiram Village, Sulagiri Taluk, Krishnagiri District, comprised in (a) punja Survey No.41 /3, to an extent of Acre 4.60 cents and (b) Nanja Survey No. 103 /7, to an extent of 0.27 cents, including a family temple in the name of Sri Arulmigu Betarayaswami Thirukoil.

For Petitioner : Mr.R.Thanjan

For Respondents 1 & 2: Mr. V.Manoharan
Additional Government Pleader

For Respondents 3 to 6:Mr.S.Yaswanth
Additional Government Pleader

ORDER

The public auction notice dated 10.01.2022 is sought to be quashed in the present writ petition.

2. The petitioner states that their family is in possession of the subject property for several decades. The temple was also constructed by the forefathers of the petitioner and under these circumstances the petitioner states that he is the cultivating tenant and therefore, the temple authorities have no authority to issue public auction notice. The petitioners have stated that they are already instituted a Civil suit in O.S.No.368 of 2020 before the Sub-ordinate Judge, Hosur for a declaration declaring the right and title over the subject property including the temple and for permanent injunction.

3. The learned Additional Government Pleader appearing on behalf of the Hindu Religious and Charitable Endowments Department brought to the notice of this Court that in respect of the very same prayer sought for in the writ petition in the matter of public auction, the petitioners have already filed Interlocutory Application in I.A.No. 7 of 2022 in O.S.No.368 of 2020 and the said Interlocutory application was dismissed by the Sub-Court, Hosur on 28.01.2022.



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4. The learned counsel for the petitioner admitted the said fact and made a submission that the petitioners have proposed to file an appeal against the said order passed in the Interlocutory application by the Sub-Court.

5. This being the factum, a parallel writ petition need not be entertained in respect of the very same relief and further more, the petitioners have already instituted a Civil suit for declaration and only after crystallizing the rights of the petitioner, the further rights can be claimed. As far as the respondent-Temple is concerned, the petitioners claim that they are the owners of the property and further it is brought to the notice of this Court that the auction had already been conducted and the successful bidder was granted lease and an agreement was also entered into.

6. This being the factum, the relief as such sought for in the present writ petition cannot be granted and the petitioners have to establish their right before the Civil Court of law in the suit already pending.

7. With these observations, the writ petition stands dismissed. No costs.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

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To

1. The District Collector,
Krishnagiri District,
Krishnagiri.
2. The Tahsildar,
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Krishnagiri -2.

6. The Inspector,
Hindu Religious and Charitable Endowments,
Shoolagiri & Taluk,
Krishnagiri District.

+1cc to Mr.R.Thanjan, Advocate Sr.7471

+1cc to the Government Pleader Sr.7438

+1cc to the Special Government Pleader Sr. 7035

W.P.No.1442 of 2022

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srg 18/02/2022