



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2022

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THE HONOURABLE MR.JUSTICE T.RAJA

and

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.No.5987 of 2022 and WMP.No.6065 of 2022

Arulmigu Mayavaperumal Trust
rep. by its Managing Trustee
R.Subramaniam,
No.2/28, Gandhi Nagar,
Tirupur Taluk,
Tirupur District.

... Petitioner

-vs-

1.The District Collector,
O/o. District Collector,
Coimbatore District.

2.The Revenue Inspector,
Karumathampatti,
Sulur Taluk,
Coimbatore District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the Proceedings dated 24.02.2022 issued by the 2nd respondent, quash the same and consequently, forbear the respondents from in any manner interfering with the petitioner's peaceful possession and enjoyment of the property comprised in Old S.No.240, then in S.No.452/2 and now in Grama Natham New S.No.665/2 from the year 1992 situated at Kurukkupalayam Majra, Sembandayapalayam Village, Sulur Taluk, Coimbatore District.

For Petitioner : Mr.Ethirajulu.G

For Respondents : Mr.A.Selvendran, Spl.G.P.



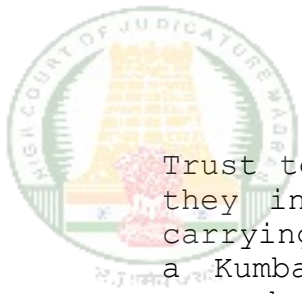
ORDER

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

Challenging the Proceedings dated 24.02.2022 issued by the 2nd respondent and for quashing of the same with a consequential direction, forbearing the respondents from in any manner interfering with the petitioner's peaceful possession and enjoyment of the property comprised in Old S.No.240, then in S.No.452/2 and now in Grama Natham New S.No.665/2 from the year 1992 situated at Kurukkupalayam Majra, Sembandayapalayam Village, Sulur Taluk, Coimbatore District.

2. Learned Counsel appearing for the petitioner would submit that the petitioner is a Managing Trustee of 'Sri Mayavaperumal Trust'. While so, Mayavaperumal, a deity of Perumal was installed in the temple before 5 decades by the family members of the Manjakulam Boyar community hailing from Coimbatore and Tirupur Districts. The said temple is situated in the land comprised in Old S.No.240, then in S.No.452/2 and now in Grama Natham New S.No.665/2 from the year 1992 situated in Kurukkupalayam Majra, Sembandayapalayam Village, Sulur Taluk, Coimbatore District. The said temple was constructed by the petitioner's father viz. Mr.Rangasamy Boyar and after his demise, the petitioner inherited the said temple as Hereditary Trustee. Thereafter, the petitioner created a Trust under the name and style of 'Sri Mayavaperumal Trust' through a Trust Deed dated 23.11.2018 registered as Document No.65/2018 on the file of the SRO, Tirupur to maintain the temple, conduct religious festivals and provide water and food for the devotees and also to renovate the temple. Thereafter, the petitioner's wife Mrs.Rajamani purchased a piece of land to an extent of 5562.5 sq.ft. on the southern side of the temple which was in possession and enjoyment of one Vaiypuri Goundar and Chinnasamy under a registered Sale Deed dated 16.11.2005 in Doc.No.10553/2005 on the file of SRO, Avinashi. Subsequently, the said Rajamani, on 20.05.2019 gifted the said property to the petitioner Trust through a Registered Doc.No.6961/2019 on the file of SRO, Avinashi.

3. Learned Counsel appearing for the petitioner would further submit that when the land-in-question covered in S.No.665/2 Old S.No.452/2 Semmandam Palayam Majra, Kurukkupalayam Village, Sulur Taluk, Tirupur is shown as 'Natham poramboke' in Adangal Register, as per the settled legal position, any first user able to show that he has been in possession and enjoyment of the property for more than a decade is entitled to continue and the said person cannot be evicted on the ground that he is an encroacher and neither a panchayat nor a Government can claim the Natham poramboke from the first user. In support of his submission, he has also referred to an Inland letter from the then Electricity Board, Vanchipalayam dated 06.10.1988 wherein when a request was made by the petitioner

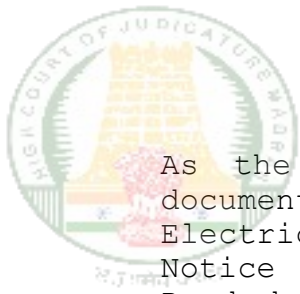


Trust to give electricity service connection to the said temple, they informed the petitioner Trust to provide a proper paper carrying the official seal of the trust. Secondly referring to a Kumbabishegam Notice dated 09.02.1992, the learned Counsel argued before us that the temple has been in existence in the year 1998 and therefore, the temple was also consecrated by conducting a Kumbabishegam on 09.02.1992. When the petitioner is able to show that he has been in existence for more than 3 decades, he cannot be called as an encroacher. Therefore, the impugned notice issued by the 2nd respondent is liable to go, it is pleaded.

4. Mr.A.Selvendran, learned Special Government Pleader taking notice for the respondents would submit that the petitioner claiming to be the Managing Trustee should furnish all the documents showing that the trust has been in existence in the land-in-question for a long period. But in the present case, the petitioner claiming to be the Managing Trustee of the Trust is attempting to use the temple property for his own sake. Therefore, the impugned notice has been issued. As he pleaded before this Court, had he made available all the documents before the 2nd respondent on receipt of the impugned notice, the 2nd respondent would have perused the documents and suitable decision would have been taken. But without placing any document before the 2nd respondent, the petitioner cannot come to this Court. Therefore, he may be directed to approach the 2nd respondent with all the documentary evidence to show that he is in possession and enjoyment for quite a long time. The learned Special Government Pleader would further submit that one of the Circulars dated 07.08.2015 issued by the Additional Chief Secretary/Commissioner of Land Administration also shows that in case anyone has built up any structure, the claimant who possess the proof of the existence of the house at the time of the settlement by details in the FMB or other documentary proof and continuous possession and enjoyment by suitable documentary evidence.

5. Since a perusal of the circular shows that if anyone claims to be in possession of Natham land is able to prove his continuous possession for the period of 30 long years, he will be considered for issuance of patta. The relevant portion in the said Circular dated 07.08.2015 issued by the Additional Chief Secretary/Commissioner of Land Administration is extracted here under:

'6.B. In the case of category I where built up structures have been wrongly classified as Vacant Sites, the claimant should furnish proof of the existence of the house at the time of settlement by detail in the FMB or other documentary proof and continuous possession and enjoyment by suitable documentary evidence.'



As the petitioner has also produced before us some of the documentary evidence, namely, Inland letter from the then Electricity Board, Vanchipalayam dated 06.10.1988, Kumbabishegam Notice dated 09.02.1992, Sale Deed dated 16.11.2005 and Trust Deed dated 23.11.2018, we hereby direct the petitioner Trust to place all the documents in response to the impugned notice before the 2nd respondent within a period of two weeks from the date of receipt of a copy of this Order, who on receipt of the explanation/reply with supportive documents as mentioned above, shall consider the same and pass a suitable order. Needless to mention that if the petitioner is able to satisfy the requirements mentioned in paragraph 6 B of the Circular dated 07.08.2015 issued by the Additional Chief Secretary/Commissioner of Land Administration, the 2nd respondent can recommend the case of the petitioner for issuance of patta or assignment. Till then, the parties are directed to maintain status quo. The above said exercise shall be completed within a period of eight weeks thereafter. Similarly, the petitioner is also at liberty to move an application along with the aforesaid documents before the concerned Tahsildar for providing patta and after taking a final decision, it is for the 2nd respondent to proceed further.

6. With the above observation and direction, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

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To

- 1.The District Collector,
O/o. District Collector,
Coimbatore District.
- 2.The Revenue Inspector,
Karumathampatti,
Sulur Taluk, Coimbatore District.

+1cc to Mr.G.Ethirajulu, Advocate SR. No. 18070
+1cc to Government Pleader SR. No.18787

W.P.No.5987 of 2022

RK (CO)
PR (16/05/2022)