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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Writ.Petition.No.7731 of 2022

P.Subramaniam

.. Petitioner

Vs.

1.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Near Easwaran Koil, Tiruppur,
Tiruppur District.

2.Arulmigu Perumpanai Varatharaja Perumal Temple,
Rep. by its Executive Officer,
Kovil Vazhi, Muthuanampalayam Village,
South Taluk Tiruppur,
Tiruppur District.

3.The Assistant Settlement Officer, (South).
Directorate of Land Survey and Settlement,
Chepauk, Chennai 600 005.

4.The District Collector
Coimbatore District.

5.The District Collector
Tiruppur District.

.. Respondents

(R4 and R5 suo motu impleaded in
W.P.No.7731 of 2022 by order of this Court
dated 06.04.2022)

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the 1st respondent to furnish the copy of the entire proceedings relating to including copy of the order made in R.R.17/72, dated 19.06.1974 on the file of the 3rd respondent and consequential order passed by the 1st respondent in his proceedings No.1080/2010 A3, dated 26.03.2012 to the petitioner.

For Petitioner : Mr.C.Prakasam

For R1 : Mrs.M.Geetha Thamarai Selvan
(Special Government Pleader)



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For R2 : Mr.K.Ashok Kumar
For RR3 to 5 : Mr.T.K.Saravanan,
(Government Advocate)

O R D E R

This Writ Petition is filed by the petitioner for a direction to the 1st respondent to furnish copy of the entire proceedings relating to the order dated 19.06.1974 made in R.R.17/72 on the file of the 3rd respondent and consequential order passed by the 1st respondent in proceedings No.1080/2010 A3, dated 26.03.2012, to the petitioner.

2.Heard the learned counsel appearing for the petitioner as well as the learned Special Government Pleader appearing for the 1st respondent, the learned counsel appearing for the 2nd respondent and the learned Government Advocate appearing for the respondents 3 to 5 and perused the entire materials on record.

3.According to the petitioner, land in Survey No.50/2 was Devadayam Minor Inam Land granted to one Seshaian for rendering daily "Pooja Services" to the deity of the 2nd respondent temple. The said Seshaian was an Inamdhar as well as trustee of Arulmighu Perumpanai Varatharaja Perumal Temple. The 2nd respondent initiated proceedings claiming both Melvaram Right and Kudivaram Right before the Sub Collector, Pollachi in the year 1939. After enquiry, by the proceedings dated 18.04.1939, the claim of the 2nd respondent was dismissed, holding that the 2nd respondent has only Melvaram Right and Kudivaram Right vest with original Inamdhar of land viz., Seshaian. Challenging the same, the 2nd respondent filed appeal before the District Collector and the same was dismissed on 31.12.1956. The order of the Sub Collector attained finality, since no appeal was filed by the 2nd respondent temple against the order of the District Collector dismissing the appeal filed by the 2nd respondent.

3(i) After the death of Seshaian, his legal heir viz., K.S.S.Subbaiah Iyankar succeeded to his estate. The Assistant Settlement Officer, Coimbatore, issued Ryotwari Patta in favour of K.S.S.Subbaiah Iyankar by the proceedings dated 19.06.1974 in R.R.No.17/72 under Section 8(2)(1)(a) of the Minor Inam Abolition Act, 1963. After death of K.S.S.Subbaiah Iyankar, the Tahsildhar, Tiruppur, in the year 2012, directed one Jayabalan, legal heir of K.S.S.Subbaiah Iyankar to pay fair rent to the tune of Rs.9,07,164/-. The said Jayabalan paid the said amount. Against the order of the 3rd respondent, the 2nd respondent approached the Settlement Officer, Chennai and filed an appeal. The said appeal was allowed by the Settlement Officer.



3(ii) In the meantime, the petitioner purchased 3.21 acres of land in Survey No.50/2, covered in T.D.No.130, situated at Muthanampalayam Village, Tiruppur District, by sale deed dated 01.07.2016 bearing Document No.8245 of 2016. His two sons namely S.Makeish and S.Mohanraj purchased 2.41 acres in the same Survey Number, adjacent to the petitioner's land, by the sale deed dated 22.03.2019, bearing Document No.2263 of 2019. Challenging the order of the Settlement Officer, the petitioner and his sons filed C.M.A.No.3 of 2019 on the file of the Principal Sub Court (Minor Inam Tribunal) Tiruppur and the said C.M.A. is pending. The petitioner requires the proceedings dated 19.06.1974 in R.R.No.17/72 to substantiate his case in C.M.A.No.3 of 2019. Hence, the petitioner gave a representation dated 10.08.2020 to the District Collector, Coimbatore and filed W.P.No.16048 of 2021 to issue a certified copy of the proceedings in R.R.No.17/72 dated 19.06.1974. This Court, by the order dated 03.08.2021, directed the 1st respondent therein/District Collector, Coimbatore, to consider the representation of the petitioner dated 10.08.2020 and if documents are available, issue certified copy of the said proceedings to the petitioner, following the procedure and in accordance with the rules, within a period of twelve weeks from the date of receipt of a copy of that order. After receiving the said order, the District Collector has not passed any order on the representation of the petitioner. On the other hand, the petitioner received a communication from the office of the District Collector stating that files are not available with the 1st respondent. Hence, the petitioner has come out with the present Writ Petition, seeking for a direction to the 1st respondent to furnish copy of the entire proceedings, including copy of the order in R.R.No.17/72 dated 19.06.1974 of the 3rd respondent and also consequential order passed by the 1st respondent in proceedings in Na.Ka.No.1080/2010 A3 dated 26.03.2012, to the petitioner.

4.The learned Special Government Pleader appearing for the 1st respondent produced the letter of the 2nd respondent dated 02.04.2022, addressed to the Special Government Pleader stating that the files relating to proceedings in R.R.No.17/72 dated 19.06.1974 are not available with the respondents 1 and 2 and it belongs to the 3rd respondent. The learned Special Government Pleader further submitted that consequential proceedings of the 1st respondent dated 26.03.2012 was furnished to the petitioner in the open Court on 08.04.2022.

5.Mr.K.Ashok Kumar, learned counsel representing the 2nd respondent submitted that documents, which the petitioner is relying on are forged documents and they are not available with the respondents.



6.The learned Government Advocate appearing for the respondents 3 to 5, on instructions from the District Collector, Tiruppur, submitted that entire documents relating to the proceedings dated 19.06.1974 in R.R.No.17/72 belong to the District Collector, Tiruppur. Due to bifurcation of District, the District Collector, Tiruppur, requires time to trace the files containing the proceedings dated 19.06.1974 in R.R.No.17/72 and will furnish copy of the same to the petitioner.

7.The learned Special Government Pleader appearing for the 1st respondent produced the file from the 1st respondent and it is seen that the 1st page of order in R.R.No.17/72, dated 19.06.1974 alone is available. In view of submissions of the learned Government Advocate appearing on behalf of the 5th respondent, the District Collector, Tiruppur that the file with regard to order of the 3rd respondent will be traced and copy of the same will be furnished to the petitioner, the 5th respondent is directed to take all earnest efforts as expeditiously as possible to trace the file and furnish the copy of the proceedings dated 19.06.1974 in R.R.No.17/72 on the file of the 3rd respondent to the petitioner, in any event, within a period of eight (8) weeks from the date of receipt of a copy of this order.

8.With the above directions, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

gsa/kj
To

- 1.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Near Easwaran Koil, Tiruppur,
Tiruppur District.
- 2.The Executive Officer,
Arulmigu Perumpanai Varatharaja Perumal Temple,
Kovil Vazhi, Muthuanampalayam Village,
South Taluk Tiruppur,
Tiruppur District.



3.The Assistant Settlement Officer, (South).
Directorate of Land Survey and Settlement,
Chepauk, Chennai 600 005.

4.The District Collector
Coimbatore District.

5.The District Collector
Tiruppur District.

+1 cc to Mr.K.Ashok Kumar, Advocate Sr.NO.27215
+1 cc to Government Pleader Sr.NO. 27156

W.P.No.7731 of 2022

JPL II (CO)
A.SK(16/05/2022)