



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2022

C O R A M

THE HON'BLE MS.JUSTICE V.M.VELUMANI

W.P.No.25254 of 2021
and
W.M.P.No.26635 of 2021

K.Panchanadeeaswaran

...Petitioner

Vs

1. Office of the Assistant Commissioner,
Hindu Religious and Charitable Endowment
Department, Kumbakonam.
2. The Tahsildhar,
Thenpathi Sirkazhi,
Mayiladuthurai District,
Tamil Nadu 609 111.
3. The Revenue Divisional Officer,
SH-23 Mayiladuthurai,
Thirutharapoondi Road,
Mayiladuthurai - 609 001.
4. The District Revenue Officer,
Mayiladuthurai - 609 001.
5. The District Collector,
Mayuranathar Temple Street,
Mayiladuthurai - 609 001.

... Respondents

Prayer:- Writ Petition filed under Section 226 of the Constitution of India, prayed for the issuance of Writ of Certiorarified Mandamus, to call for the records of the order dated 16.12.2020 issued by the 1st respondent and quash the same and subsequently direct the 2nd respondent to dispose of the fresh representation dated 01.04.2021 by appointing a surveyor to survey the land in S.No.79/1 in Mathanam Village, Sirkazhi Taluk, Mayiladuthurai District and to provide a report after measuring the land by mentioning the details as to the total extent of land encroached by Sri Pasupatheshwarar Temple



WEB COPY

Kumbabishega Committee in land in S.No.79/1, MathanamVillage, Sirkazhi Taluk belonging to the Kattalai.

For Petitioner : Ms.P.Shanthini
for Mr.R.Kathikeyan

For R1 : Mr.S.Yaswanth
Additional Government Pleader, HR & CE

For R2 to R5 : Mr.S.Ravikumar
Special Government Pleader

ORDER

This Writ Petition is filed seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records of the order dated 16.12.2020 issued by the 1st respondent and quash the same and subsequently direct the 2nd respondent to dispose of the fresh representation dated 01.04.2021 by appointing a surveyor to survey the land in S.No.79/1, Mathanam Village, Sirkazhi Taluk, Mayiladuthurai District and to provide a report after measuring the land by mentioning the details as to the total extent of land encroached by Sri Pasupatheeshwarar Temple Kumbabishega Committee in land in S.No.79/1, MathanamVillage, Sirkazhi Taluk belonging to the Kattalai.

2.Heard Ms.P.Shanthini, for Mr.R.Kathikeyan, learned counsel appearing for the petitioner; Mr.S.Yaswanth, learned Additional Government Pleader appearing for the 1st respondent and Mr.S.Ravikumar, learned Special Government Pleader appearing for the respondents 2 to 5.

3.According to the petitioner, he is the Trustee of Arulmigu Sabanayakar Desanthira Kattalai and Sri Palaniandavar Thaipoosa Kavadi Abhisheka Kattalai and said Kattalai owns a land in Survey No.79/1 in Mathanam Village, Sirkazhi Taluk, Mayiladuthurai District and the revenue records stands in the name of Kattalai. In Survey No.79/2, Sri Pasupatheeswarar Temple is in existence. Since the said temple was in dilapidated condition, a committee was formed for demolishing the temple and putting up new construction. When the committee started to construct the temple in Survey No.79/2, the Revenue Officials prevented them stating that the land in Survey No.79/2 was allotted for Revenue quarters. The committee members of the said temple filed Writ Petition in W.P.No.27817 of 2014 to dispose of the representation dated 21.07.2014 by directing the respondents therein to issue patta for the land in Survey No.79/2 in the name of Sri Pasupatheeswarar Temple. This Court



vide order dated 21.07.2017, directed the respondents therein to dispose of the representation of the committee members.

4.While so, all of a sudden, the members of the committee encroached the land belonging to the Kattalai in Survey No.79/1 and started construction of the temple. Therefore, the petitioner filed a suit in O.S.No.187 of 2015 on the file of the Principal Subordinate Court, Mayiladuthurai for demolition of construction and permanent injunction restraining the committee members from further construction of the Temple. The petitioner gave representation dated 05.01.2016 to the 1st respondent - Assistant Commissioner, HR & CE, Kumbakonam to depute officers to make on-the-spot enquiry and prevent the committee members of Sri Pasupatheeswarar Temple from further construction of the temple. However, the 1st respondent failed to pass further orders on the representation of the petitioner. In such circumstances, the petitioner filed Writ Petition in W.P.No.1608 of 2016 before this Court. This Court by order dated 13.03.2019, directed the respondents therein to consider the representation of the petitioner dated 05.01.2016. Even then, the respondents therein did not pass any orders. When the petitioner filed Cont.P.No.288 of 2020 before this Court, the 1st respondent produced the impugned order and in view of the same, the contempt petition was closed. Hence, the petitioner has come out with the present Writ Petition challenging the said order.

5.According to the learned counsel for the petitioner, this Court vide order dated 13.03.2019, directed the respondents therein to appoint the Surveyor to demarcate the land belonging to the Kattalai. In spite of the said order, the 1st respondent did not demarcate the land in Survey No.79/1 belonging to the Kattalai. The reasons given by the 1st respondent in the impugned order is with regard to the pendency of O.S.No.187 of 2015, which is erroneous and prayed to quash the impugned order.

6.Mr.Yashwanth, learned Additional Government Pleader appearing for the 1st respondent submitted that since the suit between the petitioner and the committee members of the Sri Pasupatheeswarar Temple is pending for the very same relief sought before the 1st respondent, the impugned order was passed. Hence, there is no error in the impugned order and prayed for the dismissal of the Writ Petition.

7.According to the petitioner the land in Survey No.79/1 in Mathanam Village, Sirkazhi Taluk, Mayiladuthurai District belongs to the Kattalai. The committee members of the Sri Pasupatheeswarar Temple encroached the land in Survey No.79/1 and started construction of the Temple. The petitioner filed suit in O.S.No.187 of 2015 before the Principal Subordinate Court, Mayiladuthurai, for the demolition of the construction



and permanent injunction restraining the committee members from constructing the temple and the same is pending. From the impugned order, it is seen that the petitioner has also filed I.A.No.81 of 2016 for appointment of Advocate Commissioner to demarcate the land with the help of the Surveyor. The relief sought for by the petitioner from the 1st respondent is the subject matter of O.S.No.187 of 2015 and in I.A.No.81 of 2016 on the file of the Principal Subordinate Court, Mayiladuthurai. This Court while disposing the W.P.No.1608 of 2016 filed by the petitioner directed the respondents therein to employ a surveyor to demarcate the land belonging to the Kattalai

8. In view of the pendency of the suit in O.S.No.187 of 2015 and I.A.No.81 of 2016 for appointment of Advocate Commissioner, there is no error in the impugned order dated 13.03.2019 passed by the 1st respondent.

9. The contention of the petitioner is that the committee members of the temple are putting up further construction without obtaining order from HR & CE Department. In view of the above claim of the petitioner that Temple is being constructed in the land belonging to the Kattalai in Survey No.79/1 and the suit is of the year 2015, the learned Principal Subordinate Judge, Mayiladuthurai is directed to dispose of the suit as expeditiously as possible, preferably within a period of three (3) months from the date of receipt of a copy of this order.

10. With the above direction, this Writ Petition is dismissed. No Costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To:

1. The Office of the Assistant Commissioner,
Hindu Religious and Charitable Endowment
Department, Kumbakonam.
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Copy to

The Principal Subordinate Judge,
Mayiladuthurai.

+2ccs to Mr.R.Karthikeyan, Advocate, S.R.No.10184
+1cc to the Government Pleader, S.R.No.11085

W.P.No.25254 of 2021

GPL[co]
NSK 09/03/2022