



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

and

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.8934 of 2022

and

W.M.P(MD)Nos.6462, 6466 and 6468 of 2022

Singarajakottai Rajus'
Arulmigu Kothandaramaswamy Kovil,
Rep by its Managing Trustee,
Mrs.S.S.Srinivasa Raja
Puthupalayam
Rajapalayam
Virudhunagar District.

.. Petitioner

Vs.

1.The District Collector,
Virudhunagar District.

2.The Tahsildar
Tahsildar Office,
Rajapalayam,
Virudhunagar District.

..Respondents

Prayer: Writ Petition filed under Article 26 of the Constitution of India, for the issuance of Writ of Certiorari, calling for the records relating to the impugned order dated 12.10.2017 bearing Na.Ka.G4/2741/2014 passed by the 1st respondent and the order of eviction passed by the 2nd respondent dated 17.09.2021 bearing Na.Ka.A6/989/2019 and quash the same.

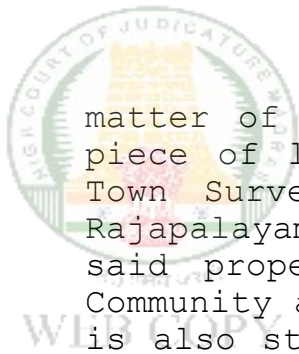
For Petitioner : Mr.T.Antony Arul Raj
For R1 & R2 : Mr.S.P.Maharajan
Special Government Pleader

ORDER

(Order of the Court was made by S.S.SUNDAR.J.,)

This Writ Petition is filed by the Managing Trustee of Temple viz., Arulmigu Kothandaramaswamy Kovil, which is a private temple and denominational temple.

2.The case of the petitioner is that the Management of the Temple is vested with the community called 'Rajus'. The subject



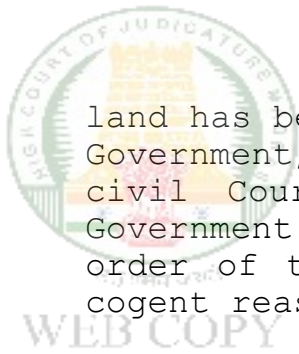
matter of the lis is an extent of 7 cents which is said to be a piece of land (Triangle shape) abutting the National Highways, in Town Survey No.2 Ward No.E, Block No.8 of Pudupalayam Village, Rajapalayam Taluk. It is the further case of the petitioner that the said property is adjacent to the temple belonging to the said Community and that it is in their possession more than 100 years. It is also stated that the temple is using the said piece of land to park their temple chariot and vaganams.

3.Though patta was originally issued by the Tahsildar by proceedings dated 29.02.1984, it is admitted that the first respondent has cancelled the patta by order dated 05.04.2005 and the land was identified as Government Poromboke. Challenging the said order, the petitioner filed a writ petition in W.P(MD)No.4404 of 2005 and the same was dismissed by the learned Single Judge, by an order dated 15.11.2010. Thereafter, appeal was filed by the petitioner in W.A(MD)No.636 of 2011 and this Court allowed the appeal and remitted the matter to the District Collector for fresh consideration and to pass a fresh order after giving adequate opportunity to the petitioner. Thereafter, the first respondent, District Collector, took up the matter and passed the order dated 12.10.2017, which is impugned in the present writ petition.

4.It is the case of the petitioner that the petitioner filed a civil suit in O.S.No.789 of 2044 before the Principal District Munsif, Srivilliputur, for permanent injunction, against the municipality and that the said suit was decreed in favour of the petitioner Temple by judgment and decree dated 04.02.2008. It is also stated that the judgment and decree in O.S.No.789 of 2004 was also confirmed in the first appeal in A.S.No.48 of 2010 on the file of the Sub Court, Srivilliputur, filed by the Municipality. On the strength of the order passed by the Collector, finally confirming his earlier order cancelling the patta, the second respondent issued notice dated 24.08.2021 under Section 7 of the Tamil Nadu Land Encroachment Act 1905, by treating the petitioner Temple as an encroacher. Thereafter, the order of eviction under Section 6 of the Tamil Nadu Land Encroachment Act, was also passed on 17.09.2021. Challenging the order of the District Collector dated 12.10.2017 and the order of eviction passed by the second respondent on 17.09.2021, the above writ petition is filed.

5.The learned counsel appearing for the petitioner submitted that the civil Court has granted decree for permanent injunction in favour of the petitioner Temple which was also confirmed by the appellate Court. The learned counsel further submitted that the District Collector passed the order ignoring the actual classification of the land as per the old revenue records.

6.It is seen that the District Collector, after considering the revenue records, held that the petitioner Temple has not



land has been recognized as assignable land under the holding of the Government, the District Collector found that the decree of the civil Court is not binding on the revenue department, as the Government was not made as a party in the civil suit. Therefore, the order of the District Collector is supported by the documents and cogent reasons.

7.The documents relied upon by the Temple would also reveal that the property has been classified as a Government poromboke in the old revenue records and the civil Court also found that the land is assignable land under the control of the Government. Before the Civil Court the Temple itself has accepted the Government as a paramount title holder. The decree for permanent injunction, as against the local body viz., Municipality on the basis of the petitioner's possession, will not enable the petitioner to claim title. As a matter of fact, the title of Government had been accepted and recognized by the Civil Court by considering the lands as Government poromboke. Hence, the decree of civil suit does not lend any support to the petitioner or his claim of title.

8.The learned counsel appearing for the petitioner submitted that the temple is in possession of the land for a long time and that therefore, the Government may consider the petitioner's entitlement to get assignment subject to revenue standing orders or the law, that may be in force. The request of the petitioner can be considered by the respondent, if the land abutting the road is not necessary for any public purpose by the Government.

9.Since the order of eviction had already been passed against the writ petitioner, it may not be appropriate to give further direction. However, the petitioner, as a temple, seeks indulgence of this Court to grant sometime to find alternative accommodation for parking their chariot and vaganams. Accordingly, this Court gives three months time from today. The Government may consider the application for assignment of land in favour of the petitioner Temple if it is deem fit.

10.With the above observations, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

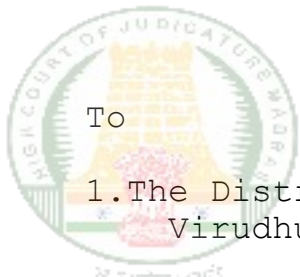
Assistant Registrar (Records)

// True Copy //

/06/2022

Sub Assistant Registrar(CS)

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To

1.The District Collector,
Virudhunagar District.

2.The Tahsildar
Tahsildar Office,
Rajapalayam,
Virudhunagar District.

+1 CC to M/s.SPL.GP (SR-24600[F] dated 08/06/2022)

W.P. (MD) .No.8934 of 2022

and

W.M.P (MD) Nos.6462, 6466 and 6468 of 2022

07.06.2022

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