



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.06.2022

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Writ Petition (MD) No.12820 of 2021

P.Muthukrishnan

.. Petitioner

Versus

1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Nungambakkam,
Chennai - 600 034.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Thiruvanaikaval,
Trichy District.

3.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Thanjavur District.

4.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Pudukkottai,
Pudukkottai District.

5.The Inspector,
Hindu Religious and Charitable Endowments Department,
Kulathur,
Pudukkottai District.

6.S.Rengarajan Naidu

7.S.Varadharajan Naidu

8.S.Narayanan

9.Kumar @ Balakrishnan

.. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the respondents 1 to 5 to take action against the respondent Nos.6 to 9 for misusing their post of Hereditary Trustee at Arulmigu Sanjeevirayar Thirukovil, Pidampatti, Mathur Post, Kulathur Taluk, Pudukkottai District, based on the petitioner's representation dated 15.05.2019 and 20.04.2021.

For Petitioner

: Mr.M.Suresh

For R1 to R5

: Mr.M.Lingadurai



For R6, R8 and R9
For R7

Special Government Pleader
: Mr.R.Murali
: Mr.AN.Ramanathan

ORDER

WEB COPY

The petitioner, who is the lessee in one of the properties of Arulmigu Sanjeevirayar Thirukovil, Pidampatti Village, Kulathur Taluk, Pudukkottai District, had given a representation to the official respondents and other officials on 15.05.2019, requesting them to take action against the ninth respondent.

2.The specific case of the petitioner is that, his ancestors were cultivating in the temple lands from time immemorial and paying lease to the Temple regularly. Now, the petitioner is also cultivating the land belonging to the Temple and paying the lease amount. The above said Temple was classified under Section 46(ii) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 [hereinafter referred to as 'the H.R. & C.E. Act']. One Narayanasamy Dasari and Sanjeevi Naidu [father of the respondents 6 and 7] filed O.A.No.46 of 1960 before the H.R. & C.E. Department and got declared as Hereditary Trustees of the Temple. The said Narayanasamy Dasari passed away on 08.02.1979, leaving behind one Seenivasan, who is the father of the eighth respondent, as his legal heir. Subsequently, the said Seenivasan also died and the eighth respondent becomes the Hereditary Trustee of the Temple. Likewise, Sanjeevi Naidu also died leaving behind the respondents 6 and 7 along with Late.Soundararajan as his legal heirs. The Temple was administered by two branches, Narayanasamy Dasari and Seenivasan Naidu on rotation basis.

3.The Temple owns the following extents of land and the same are under lease with various persons as stated below:-

''(i) Cultivating Lands:-

(1) Nanja Lands - 94 Acres 78 Cents - Lease
with 71 persons

(2) Punja Lands - 284 Acres 30 Cents - Lease
with 75 persons

(ii) Uncultivating Lands:-

(i) Nanja Lands - 5 Acres 72 Cents

(ii) Punja Lands - 173 Acres 37 Cents

(iii) Houses:-

(1) 28 Houses in the Temple land

(iv) Water Tanks:-

(1) Periyakulam

(2) Palaniyandikulam

(3) Parayankulam



- (4) Ovankulam
- (5) Pudhukulam
- (6) Molayankulam
- (7) Thamaraikulam
- (8) Kollankulam''

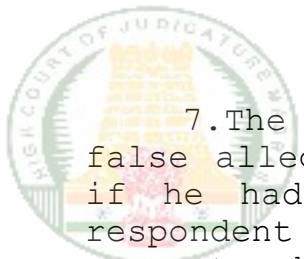
WEB COPY

4. One Chitra, the daughter-in-law of the sixth respondent has taken lease of 9.29 Acres of Nanja land and 15.66 Acres of Punja land for annual lease amount of Rs.7,893/-. She was in possession of 4.50 Acres of land in S.F.No.29/1 without any lease and her name was not found in the revenue records. She has also constructed a house measuring an extent of 90 Cents in S.F.No.27/1 without any permission from the H.R. & C.E. Department and compound walls have also been constructed. Jamuna, W/o.Late. Sundararaj has taken lease of 13.58 Acres of Punja land and 8.80 Acres of Nanja land for annual lease amount of Rs.6,468/- and constructed house in 41 Cents of land in S.F.No.58. She has also sub-leased an extent of 2 Acres 70 Cents of land in S.F.No.276/2 to run a fishing pond. Srirangammal, sister of the seventh respondent, has taken lease of 13.58 Acres of Punja land and 8.01 Acres of Nanja land for annual lease amount of Rs.6,471/-. Umarani, wife of the seventh respondent has constructed house in S.F.No.58, to an extent of 10 Cents and she is in possession of vacant site to an extent of 13 Cents. S.Amutha, W/o.Late Seenivasan has constructed dwelling house in S.F.No.58 to an extent of 40 Cents and she is in possession of vacant site to an extent of 12 Cents. Thus, the family members of the Hereditary Trustees have taken the Temple lands and cultivating the same. Further, they have constructed their dwelling houses in the Temple lands without any permission from the H.R. & C.E. Authorities and the Hereditary Trustees failed to collect the lease amount from the lease holders and there was huge arrears of lease amount to be collected from the tenants. The respondents 6 to 9, who are all the Hereditary Trustees, have not taken any steps to collect the arrears of lease amount. While the seventh respondent was in the Management, loan was obtained against the fixed deposits, which was kept at Indian Bank, Thiruvanaikaval Branch, Trichy District, and the same was not repaid and the Bank has taken steps to adjust the same from the fixed deposit amount of the Temple. The seventh respondent has filed W.P.(MD)No.19175 of 2020 before this Court, seeking to probe into the issue of alleged misappropriation of the Temple funds to the tune of Rs.60,00,000/- along with subsequent interest, that were deposited in the Indian Bank, Thiruvanaikaval Branch. This Court, vide order dated 21.04.2021, directed the Inspector of Police, Mandaiyur Police Station, Pudukkottai District, to register F.I.R. and file a final report within three months. Subsequently, F.I.R. was registered on 20.06.2021 in Crime No. 64 of 2021 under Sections 406, 420, 465 and 468 of I.P.C. against the Managers of the Temple and the investigation is pending. Thereafter, no action taken. Hence, the present Writ Petition.

5.The respondents 6, 8 and 9 filed counter affidavit. The learned counsel for the respondents 6, 8 and 9 submits that the petitioner without clean hands and by suppressing various material facts, has approached this Court to sort out his personal grievance through the present Writ Petition. The petitioner is in illegal occupation of the Temple properties. Further, the seventh respondent was the Trustee of the Temple for the past several years and swindled the money of the Temple. Without any approval of the H.R. & C.E. Authorities, the erstwhile Trustee, namely, the seventh respondent permitted the petitioner to occupy the Temple lands for several years without properly fixing the rent and without properly collecting the rent also. Since the petitioner has been closely associated with the seventh respondent, the seventh respondent allowed him to enjoy the Temple properties. Further, the following are the details of Temple properties unlawfully occupied by the petitioner and his family members, which are also suppressed by the petitioner:-

Sl. No.	Name	Survey No	Extent Acres
1	S.Raju (Brother's son of petitioner)	24/2	0.24
2	P.Muthukrishnan - Writ Petitioner	7/1	3.0
3	P.Muthukrishnan - Writ Petitioner	36/1	2.25
4	P.Usharani - Sister of the petitioner	7/1	3.0
5	R.Venkatesan - Son of Raju	36/1	3.75
6	R.Sathiyamoorthy - Son of Raju	8/1	3.0
7	R.Sathiyamoorthy - Son of Raju	70	5.0
8	M.Kandasamy	15/6	0.70
9	M.Maheswari - Wife of Muthukrishnan (petitioner)	7/1	4.0
10	M.Maheswari - Wife of Muthukrishnan (petitioner)	70	5.0
	Total		29.94 Acres

6.Since the respondents 6, 8 and 9 are taking steps to tone up administration of the Temple, the seventh respondent instigated the petitioner to make false allegations as if their family members are illegally enjoying the Temple properties. Further, the sixth respondent himself made a request to the H.R. & C.E. Department to conduct an audit of the Temple funds and accounts, so as to unearth the true facts by letter dated 30.07.2021.



7.The learned counsel for the seventh respondent submits that false allegations have been made against the seventh respondent as if he had misappropriated Temple funds. In fact, the seventh respondent has deposited the compensation amount in the Bank account, which is still available. False allegations have been made against the seventh respondent. Proper audit would reveal the truth. The learned counsel further submits that the seventh respondent is ready and willing to appear before the Joint Commissioner along with supporting documents as and when summoned. He further submits that there are allegations and counter allegations between the hereditary trustees namely, the respondents 6, 8 and 9 and the seventh respondent vice versa.

8.Considering the rival submissions and on perusal of the materials, it is seen that the petitioner, who is the lessee in one of the properties of the Temple, had given a representation to the official respondents and other officials on 15.05.2019, requesting them to take action against the ninth respondent. It is seen that based on the petitioner's complaint, enquiry has been initiated and the same is in progress and presently, the enquiry is pending with the third respondent/Joint Commissioner, H.R. & C.E. Department, Thanjavur.

9.At this juncture, the learned Special Government Pleader for the respondents 1 to 5 submits that now the jurisdiction of the Temple has been annexed to the third respondent/Joint Commissioner, Thanjavur, and it may take some time for the files to be transferred from Trichy to Thanjavur.

10.In view of the above, the petitioner to submit a copy of the complaint along with supporting documents to the third respondent/Joint Commissioner, Thanjavur, who will conduct enquiry and complete the same without any delay. The petitioner as well as the respondents 6 to 9 are directed to submit respective documents available with them in support of their contentions and objections to the third respondent. Thereafter, the third respondent shall proceed with the enquiry, pass appropriate orders on merits and in accordance with law, preferably within a period of three months from the date of receipt of a copy of this order.

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

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/06/2022

Sub Assistant Registrar(CS)



To

1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Nungambakkam,
Chennai - 600 034.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Thiruvanaikaval,
Trichy District.

3.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Thanjavur District.

4.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Pudukkottai,
Pudukkottai District.

5.The Inspector,
Hindu Religious and Charitable Endowments Department,
Kulathur,
Pudukkottai District.

+1 CC to M/s.R. MURALI, Advocate (SR-27053[F] dated 21/06/2022)

+1 CC to M/s.SPL.GP (SR-27112[F] dated 21/06/2022)

+1 CC to M/s.M. SURESH, Advocate (SR-27215[F] dated 21/06/2022)

WP (MD) No.12820 of 2021
20.06.2022

NSN(CO)
KB(28.06.2022) 6P 9C