



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.03.2022

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P(MD).No.20636 of 2017

and

W.M.P(MD).Nos.16902 and 16903 of 2017

Chokkalingapuram Devangar
Varthaga Sangam through its
President
Door No.20, West Car Street,
Chokkalingapuram,
Aruppukottia,
Virudhunagar District.

... Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable Endowment Department,
Chennai.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Sivagangai.

3.Aruppukottai Chokkanathasamy Temple,
Chokkalingapuram,
Aruppukottai
Through its
Executive Officer,
Aruppukottai.

4.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Madurai.

...Respondents

(R4 is suo muto impleaded by this
Court vide order, dated 29.03.2022)

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent dated 02.01.2017 in proceedings dated 02.01.2017 in proceedings Na.Ka.No.712/2013 M1, the consequential calculation sheet prepared by the third respondent, quash the same as the same is arbitrary,



ultravires, contrary to law, and consequentially direct the second respondent to conduct an enquiry in accordance with law.

For Petitioner : Mr.R.G.Shankar Ganesh

For R1, R2 & R4 : Mr.P.Subbaraj
Special Government Pleader

For R3 : Mr.P.Mahendran

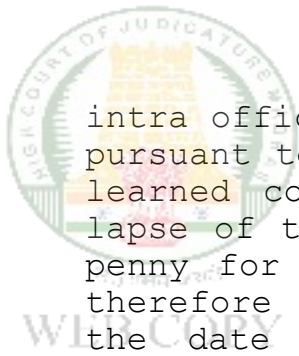
ORDER

The petitioner has challenged the impugned communication of the first respondent, dated 02.01.2017 in proceedings Na.Ka.No.712/2013 M1, exchanged between the first and second respondents calling upon the second respondent to take steps to recover the amount towards use and occupation of the property of the third respondent temple from the petitioner.

2. The case was argued by the learned counsel for the petitioner by stating that the petitioner had built a superstructure on the land belonging to the third respondent under a bonafide impression that the land did not belong to the third respondent temple and that there was longstanding battle between the petitioner's sangam and the third respondent. It is submitted that the third respondent temple had earlier filed O.S.No.128 of 1986, which was dismissed by the District Munsif Court, Aruppukottai. The learned counsel for the petitioner further submits that the first appeal in A.S.No.154 of 1996 before the Subordinate Court, Virudhunagar also affirmed the judgment and decree of the Trial Court, dismissing the suit filed by the third respondent.

3. The learned counsel for the petitioner submits that only in the year 2008, the title of the property was resolved after the second appeal before this Court was allowed in S.A.No.1002 of 2000, vide judgment and decree dated 15.02.2008. It is submitted that the building in question was put up by the petitioner and therefore the calculation given by the third respondent pursuant to the directions of the respondents 1 and 2 levying fair rent from 1996 on the superstructure put up by the petitioner cannot be upheld. That apart, it is submitted that the petitioner voluntarily executed a gift deed in favour of the third respondent temple after the second appeal was allowed on 15.02.2008, by making an offer on 19.08.2016, which was accepted by the first respondent on 02.01.2017 and thereafter gift deed was executed. It is therefore submitted that the petitioner can be asked to pay the amount towards use and occupation for the land and not for the building which was admittedly put up by the petitioner.

4. Opposing the prayer, the learned Special Government Pleader for the respondents 1, 2 and 4 and the learned counsel for the third respondent submits that the petitioner has no locus to challenge the



intra office communication exchanged between the respondents 1 and 2 pursuant to which the third respondent has given a calculation. The learned counsel for the respondents further submits that despite lapse of time, the petitioner has not come forward to pay a single penny for the period commencing from 1986 and the petitioner is therefore encroacher on the said property. It is submitted that on the date of filing of the writ petition, the petitioner was approximately due for a sum of Rs.33,60,409/- and a further sum towards litigation in all amounting to Rs.34,41,839/-. Despite lapse of three years, since the impugned calculation was given, no further payments have been made. As on date, a sum of Rs.64,08,722/- is due from the petitioner. The learned counsel for the respondents further submits that the petitioner is running about 45 commercial shops in the building. It is further submitted that the correctness of calculation made by the third respondent cannot be decided in this proceeding. However, the fact remains that right from 1986, the petitioner has not paid a single penny to the third respondent temple.

5. Considering the same, I am inclined to dispose the writ petition by directing the petitioner to pay a sum of Rs.30,00,000/- within a period of sixty days from the date of receipt of copy of this order to the third respondent temple. The amount paid by the petitioner shall be treated as deposit to be appropriated by the third respondent subject to proper determination of amount for use and occupation by the petitioner on the two cents of land from the year 1986. The appropriate calculation shall be made and intimated to the petitioner. The petitioner shall start paying rent for the ensuing period at Rs.54,201/-. The said rent can also subject to challenge from the petitioner in accordance with the provisions of the law. The amounts directed to be paid by the petitioner shall subject to final determination of the fair rent both for the period starting from 1986 and for the period after such revision has been made. This exercise shall be completed by the fourth respondent within a period of three months from the date of receipt of copy of this order.

6. The writ petition stands disposed of with the above observations. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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<https://hcservices.ecourts.gov.in/hcservices/>



To

- 1.The Commissioner,
Hindu Religious and Charitable Endowment Department,
Chennai.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Sivagangai.
- 3.Aruppukottai Chokkanathasamy Temple,
Chokkalingapuram,
Aruppukottai
Through its
Executive Officer,
Aruppukottai.
- 4.The Joint Commissioner,
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Madurai.

+1 CC to M/s.SPL GP (SR-15362[F] dated 30/03/2022)

+1 CC to M/s.P.MAHENDRAN, Advocate (SR-15400[F] dated 30/03/2022)

+1 CC to M/s.R.G.SHANKAR GANESH, Advocate (SR-15800[F] dated
31/03/2022)

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RK(28/04/2022) 4P 8C