



WEB COPY



W.P.No.3600 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.3600 of 2023

and

W.M.P.No.3669 of 2023

Founder Vythilinga Iyer Family Descendants Trustees,
(For Sri Chandrasekara Swami and Sri Lakshminarayana
Perumal Temple),
Agara Mappadugai Village,
Mayiladuthurai Taluk & District,
Rep by its Chairman,
S.Panchapakesan, S/o.Srinivasan

... Petitioner

Versus

- 1.The State of Tamil Nadu,
Rep by its Principal Secretary to Government,
School Education Department,
Secretariat, Fort St. George,
Chennai - 600 009.
- 2.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Nungambakkam, Chennai - 600 034.
- 3.The Commissioner,
Directorate of School Education,
DPI Campus, College Road,
Chennai - 600 006.



W.P.No.3600 of 2023

4.The District Collector,
Mayiladuthurai District,
Mayiladuthurai.

5.The Chief Educational Officer,
Mayiladuthurai District,
Mayiladuthurai.

6.The District Educational Officer,
Mayiladuthurai Educational District,
Mayiladuthurai.

7.The Block Development Officer,
Mayiladuthurai Panchayat Union,
Mayiladuthurai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents to regularize the occupation of the land belong to the petitioner's Trust comprised in S.No.269/4, Agara Mappadugai Village, Mayiladuthurai Block, to an extent of 1.50 Acres by the respondent Education Department with proper survey and demarcation of the land by entering into a lease deed with the petitioner's Trust in accordance with Section 34 of the Hindu Religious and Charitable Endowments (HR & CE) Act, 1959 and in accordance with provisions of the Scheme settled in O.A.No.29 of 1971 dated 18.04.1972, in consideration of the representation submitted by the petitioner's Trust dated 15.01.2023.

For Petitioner	: Mr.G.Sankaran for Mr.G.R.Ramesh Prabbu
For R-2	: Mr.N.R.R.Arun Natarajan Special Government Pleader
For RR1, 3 to 6	: Mr.V.Nanmaran Additional Government Pleader



W.P.No.3600 of 2023

ORDER

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This writ petition has been filed for issuance of a Writ of Mandamus, directing the respondents to regularize the occupation of the land belong to the petitioner's Trust comprised in S.No.269/4, Agara Mappadugai Village, Mayiladuthurai Block, to an extent of 1.50 Acres by the respondent Education Department, with proper survey and demarcation of the land by entering into a lease deed with the petitioner's Trust in accordance with Section 34 of the Hindu Religious and Charitable Endowments (HR & CE) Act, 1959 and in accordance with provisions of the Scheme settled in O.A.No.29 of 1971 dated 18.04.1972, in consideration of the representation submitted by the petitioner's Trust dated 15.01.2023.

2. The case of the writ petitioner is that the subject property is the temple property belongs to the petitioner-Trust and a scheme has been framed under Section 64(1) of the Hindu Religious and Charitable Endowments (HR & CE) Act in O.A.No.29 of 1971 dated 18.04.1972. As per the scheme, the Chairman of Board of Trustees shall be in-charge of day to day administration of the temple. While so, in the year 1983, one of the trustees, namely, Jayaraman executed a Settlement Deed in respect of 1.50



W.P.No.3600 of 2023

acres of land comprised in S.No.269/4 belong to the temple in favour of the Assistant Elementary Educational Officer, Mayiladuthurai Block. According to the petitioner, such gift deed is not valid in the eye of law. Now under the pretext of the above, the remaining area of the temple is sought to be enclosed by the other third parties. Therefore, seeks a direction to demarcate the temple property.

3. Heard the learned counsels appearing on either side and perused the materials available on record.

4. Mr.N.R.R.Arun Natarajan, learned Special Government Pleader (HR & CE) appearing for the second respondent on instructions would submit that they have already initiated the process to retrieve the land by entering into a lease agreement. That apart, they will also take steps to demarcate the remaining area of the temple by fencing it after conducting survey.

5. Taking note of the above facts, to preserve the temple property, there shall be a direction to the respondents to conduct survey and fence the



W.P.No.3600 of 2023

remaining property of the temple, besides entering into a lease agreement with the Education Department in respect of which, gift deed was already executed. Such exercise shall be completed within a period of five weeks from the date of receipt of a copy of this order. It is also made clear that no trustee is having any right to sale or mortgage the public temple property.

6. With the above directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

08.02.2023

Index : Yes/No
Internet : Yes/No
Speaking order/Non speaking order
rsi

To

- 1.The State of Tamil Nadu,
Rep by its Principal Secretary to Government,
School Education Department,
Secretariat, Fort St. George,
Chennai - 600 009.
- 2.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Nungambakkam, Chennai - 600 034.



WEB COPY



W.P.No.3600 of 2023

N. SATHISH KUMAR, J.

rsi

- 3.The Commissioner,
Directorate of School Education,
DPI Campus, College Road,
Chennai - 600 006.
- 4.The District Collector,
Mayiladuthurai District,
Mayiladuthurai.
- 5.The Chief Educational Officer,
Mayiladuthurai District,
Mayiladuthurai.
- 6.The District Educational Officer,
Mayiladuthurai Educational District,
Mayiladuthurai.
- 7.The Block Development Officer,
Mayiladuthurai Panchayat Union,
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