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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2023

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.4774 of 2023

Dr.M.J.Mohan

Petitioner

VS.

1.The State of Tamil Nadu,
Rep. by the Secretary to Government,
Hindu Religious Charitable and Endowments Department,
Government of Tamil Nadu,
Secretariat, Fort St. George,
Chennai – 600 009.

2.The Commissioner,
Hindu Religious Charitable and Endowments Department,
Nungambakkam, Chennai – 600 034.

3.The District Revenue Officer cum Sole Officer – III (Temple Properties)
Office of the Commissioner,
Hindu Religious Charitable and Endowments Department,
Nungambakkam, Chennai – 600 034.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 3rd Respondent pertaining to proceedings in O.Mu.No.58773/2022/V2 dated 13.12.2022 and quash the same and consequently direct the Respondents 1 to 3 to exchange the land belonging to the Respondents admeasuring 7290 sq.ft in S.No.168/3E/1A/1C/2A



Side of the Petitioner's property in S.No.168/18 with land of equal extent belonging to the Petitioner in S.No.168/18 in Pattipulam Village, Chengelpet Taluk, Kancheepuram District in accordance with G.O.Ms.No.201, Revenue and Disaster Management Department, land Disposal Wing, LD3 (1) Section dated 10.05.2022.

For Petitioner : Mr.P.Wilson
Senior Counsel for
Mr.Richardson Wilson

For Respondents : Mr.N.R.R.Arun Natarajan
Special Government Pleader

ORDER

This writ petition was filed challenging the impugned proceedings of the 3rd respondent dated 13.12.2022 and for a consequential direction to the respondents to exchange the land belonging to the respondents admeasuring 7290 Sq.Ft. in Pattipulam Village, Kancheepuram District with an equal extent of land belonging to the petitioner in S.No.168 of 2018 in the same village.

2.Heard Mr.P.Wilson, learned Senior Counsel appearing on behalf of the petitioner and Mr.N.R.R.Arun Natarajan, learned Special Government Pleader appearing on behalf of the respondents.



issued only on the ground that this Court while passing the order in W.P.No.574 of 2015 had issued certain directions and the relevant direction at Paragraph No.33 was taken into consideration and the petitioner was informed that the request made by the petitioner cannot be considered.

4. When the matter came up for hearing on 18.04.2023, this Court passed the following order:

This writ petition was filed challenging the proceedings of the 3rd respondent dated 13.12.2022 and for a consequential direction to the respondent to exchange the land belonging to the respondent with the land of an equal extent belonging to the petitioner.

2. The Division Bench of this Court in suo motu W.P.No.574 of 2015 has given detailed directions while disposing of the writ petition on 07.06.2021. One such direction that was given by the Division Bench is extracted hereunder:

33. The State Government or the Commissioner of the HR & CE Department, who are the Trustee/administrator of the temple lands, shall not alienate or give away the land contrary to the wish of the donor. The lands shall always remain with the temples. The public purpose theory shall not be invoked in cases of temple lands over which the interest of the community people of the religious denomination generally rests.



3.The learned Government Advocate appearing on behalf of the respondents submitted that the Department has filed a review petition seeking for the review of the above direction and the Department has also sought for a clarity.

4.In view of the submission made by the learned Government Advocate, further orders can be passed in this writ petition only after the clarification is given by the Division Bench with regard to the above directions.

5.Post this case after vacation.

5.Thereafter, the matter came up for hearing on 02.06.2023 and this Court passed the following order:

The learned Government Advocate appearing on behalf of respondents submitted that review application that was filed in Rev.A No.169 of 2021 in WP No.574 of 2015 was heard and it is posted for orders today. The learned counsel submitted that the order in the review application will have a bearing in this writ petition. Hence, post this writ petition under the same caption after two weeks.

6.When the matter was taken up for hearing today, Mr.Wilson, learned Senior

Counsel appearing on behalf of the petitioner brought to the notice of this Court the



order passed by the Division Bench in the Review Application Nos.169 and 170 of 2021, dated 02.06.2023. The learned Senior Counsel specifically placed reliance upon Paragraph No.16.1 and for proper appreciation, the relevant portion is extracted hereunder:

As far as exchange of the temple properties is concerned, it is clarified that the land offered in exchange should be in the vicinity where the property situated with unhindered access and proper facilities and utilised only for the temple activities. This issue is answered accordingly.

7.The learned Senior Counsel submitted that by virtue of this clarity given by the Division Bench with respect to exchange of temple properties, the same should be taken into consideration by the respondents and the request made by the petitioner must be acted upon.

8.The learned Senior Counsel appearing on behalf of the petitioner also drew the attention of this Court to G.O.Ms.No.201, dated 10.05.2022, which specifically provided for such transfer of the lands. The learned Senior Counsel also pointed out to the Section 34 of Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 and submitted that there is no bar in transfer of lands and the only requirement is that the proper procedure must be followed.

9.The learned Special Government Pleader appearing on behalf of the respondents submitted that the Division Bench has clarified with regard to exchange



of temple properties while passing the orders in the Review Applications and same will be taken into consideration along with the relevant Government Order and the relevant provisions in the Act and the request made by the petitioner will be considered. The learned Special Government Pleader submitted that there was no occasion for the 3rd respondent to deal with the claim made by the petitioner on merits by virtue of the earlier order passed in W.P.No.574 of 2020. Now that a clarification has been received from the Division Bench, the 3rd respondent will act upon the representation made by the petitioner and a final decision will be taken within the time stipulated by this Court.

10.This Court carefully considered the submissions made on either side. The request made by the petitioner for exchange of land can now be dealt with by the respondents in line with the clarification issued by the Division Bench in the order passed on 02.06.2023 in Review Application Nos.169 and 170 of 2021. It goes without saying that the respondents will also take into consideration the relevant Government Order and also the relevant provisions under the Act and a proper procedure will be followed before a final decision taken by the respondents. This process shall be completed by the respondents, within a period of six months from the date of receipt of copy of this order.

11.This writ petition is disposed of in the above terms. No Costs.



16.06.2023

Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation Case : Yes/No

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To

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Hindu Religious Charitable and Endowments Department,
Government of Tamil Nadu,
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N. ANAND VENKATESH, J.

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