



W.P.No.23431 of 2016

WEB COPY

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 20.02.2023**

**CORAM:**

**THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR**

**WP.No.23431 of 2016 & WMP.No.20110 of 2016**

Thondaimandala Adhisaiva Velalar Samgam,  
Rep. by its Secretrary N.Purushothaman  
60, Kamarajar Street, Kancheepuram – 631 501. ... Petitioner

Vs

1. The Joint Commissioner,  
Hindu Religious and Charitable Endowment Department,  
Vellore – 9, Vellore District.
2. The Assistant Commissioner,  
Hindu Religious and Charitable Endowment Department,  
Tiruvallur, Tiruvallur District.
3. The Inspector,  
Hindu Religious and Charitable Endowment Department,  
Tiruttani, Tiruvallur District.
4. The Executive Officer  
Arulmigu Subramaniaswamy Thirukoil,  
Tiruttani, Tiruvallur District. ... Respondents



W.P.No.23431 of 2016

WEB COPY

Prayer:- Writ Petition is filed, under the Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned Order made in i] Na. Ka.No.1311/2015-2/A2 dated 12.04.2016 and ii] Na. Ka. No.1311/2015-2/A2 dated 12.04.2016 passed by the second respondent, quash the same and consequently forbear the respondents from interfering with the petitioners' right over the property measuring an extent of 2.97.5 Hrs., comprised in S.No.348/2, Madam Village, Tiruttani Taluk, Tiruvallur District.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.N.R.R.Arun Natarajan  
Special Government Pleader – R1 to R3

Mr.P.Gopalan – R4

### **ORDER**

This Writ Petition has been filed to quash the impugned the impugned Order made in i] Na. Ka.No.1311/2015-2/A2 dated 12.04.2016 and ii] Na. Ka. No.1311/2015-2/A2 dated 12.04.2016 passed by the second respondent, quash the same and consequently forbear the respondents from interfering with the petitioners' right over the property measuring an extent



W.P.No.23431 of 2016

WEB COPY

of 2.97.5 Hrs., comprised in S.No.348/2, Madam Village, Tiruttani Taluk, Tiruvallur District.

2. It is the case of the petitioner that the petitioner Sangam was established by the Saiva Mudaliar Community people on 10.06.1945 and registered under Serial No.42/1945. The property measuring 2.97.5 Hrs., comprised in S.No.348/2, Madam Village Tiruttani Taluk, Tiruvallur District is owned by the petitioner Sangam. The petitioner community have been supplying flowers grown in the said lands and also contributing pooja materials to perform Utchikala Pooja to Arulmighu Subramaniaswamy Thirukoil, Tiruttani. Due to drought situation and other factors prevented cultivation of flower plants in the above mentioned lands. Further, no cultivation or agricultural operation is being carried out in the above said lands for the past six decades. Now, the Sangam started cultivation in the recent past so as to maintain the land free from any encroachment. However, notwithstanding the land usage, their community people have been continuously offering flowers and pooja materials to the temple for all these years. In the year 1995, a suit in O.S.No.50 of 1995 has been filed by the Executive Officer of Sri Subramaniaswamy



W.P.No.23431 of 2016

WEB COPY

Devasthanam claiming Rs.3400/- for the alleged act of cutting and removing the standing trees from the above land. The said suit was dismissed and it was confirmed in the first appeal. However, in Second Appeal in S.No.1346 of 1960, by the judgment dated 28.03.1963, this Court has held that grant was personal to the trustees, but, subject to the burden of supplying flowers to the deity during Utchikala Poojai. Hence, according to the petitioner, mere offering flower will not squarely come within the meaning of Endowment. However, when the matter stood thus, the impugned proceedings dated 12.04.2016 has been passed by the second respondent holding that the subject property is a religious endowment property and the same has been sought to be quashed on the ground that the service is being regularly performed and there is no complaint for non supply of the flowers during Utchikala Pooja till date. The fourth respondent is the plaintiff in the earlier suit which had attained finality in S.A.No.1346 of 1960, therefore, the respondents are bound by the judgment of this Court and are estopped from re-agitating the settled issues.



W.P.No.23431 of 2016

WEB COPY

3. The fourth respondent filed a counter. According to them, the fourth respondent temple is a listed public temple notified under Sec.46[iii] of the Tamil Nadu Hindu Religious and Charitable Endowments Act 22 of 1959 and is being administered by the Executive Officer in the cadre of Joint Commissioner appointed by the Government of Tamilnadu with the assistance of Fit Person of the temple subject to overall control of the Commissioner, HR & CE, Chennai. The impugned communication has been issued calling upon the officer bearers of the petitioner Sangam to appear for an enquiry as to why scheme should not be framed for accounting the income and expenditure derived from the service inam lands, for audit and for framing of a scheme for better administration of the Kattalai Service, viz., Utchikala Kattalai in the fourth respondent temple. The Writ petitioner being a third party has nothing to do with the service inam lands and the Utchikala Kattalai service to be performed in the fourth respondent temple. The Writ Petitioner Sangam cannot be said to be an aggrieved person for challenging the impugned communication nor entitled to canvass the correctness of the impugned communication. According to the fourth respondent, as per the temple records, 2.075 Hectare in Survey No.348/2 situated in Madam Village, Tiruttani Taluk,



W.P.No.23431 of 2016

WEB COPY

Tiruvallur District is a Devadayam Inam granted for rendering service in Chengalrayaswamy @ Subramaniaswamy Thirukkoil, Tiruttani by its trustees for the time being and for the purpose of maintaining a flower garden in the inam lands and also for supply of flowers and garlands to the idol. The grant of inam was confirmed in the name of the then trustee, viz., Muthukumaraswamy Madali subject to the condition of rendering service. Since then the trustee of Utchikala Kattalai did not maintain flower garden in the inam lands nor supplied flowers, garlands, etc. to the idol for performing kattalai service in the fourth respondent temple and the fourth respondent temple purchased flowers, garlands etc. for performing Utchikala Kattalai service in the Temple by utilising Temple funds. Therefore, the suit in O.S.No.50 of 1955 came to be filed and the said suit culminated into a Second Appeal in S.A.No.1346 of 1960 wherein it has been held that the Inam is conditional for rendering service in the fourth respondent temple. Hence, it is their contention that the revenue record shows that the inam lands were registered as Ryotwari Punjai in 'A' Register vide Patta No.1606 in the name of Utchikala Kattalai by its Trustee Kanchi Ellappa Mudali.



W.P.No.23431 of 2016

WEB COPY

4. While so, the Writ Petitioner Sangam cannot exercise any right or claim in the service inam lands granted for rendering service. However, with the collusion of the revenue officials and without notice to the then trustee or to the fourth respondent temple, the petitioner Sangam fraudulently got patta transferred in favour of the Secretary of the Sangam. A perusal of the Adangal records in the Fasli year 1423, it is mentioned as Well – 2 Nos. and Kalyana Manadapam. But on physical inspection of the service inam lands, there is only one well in existence and there is no Kalyana Mandapam in existence and thus the character of the service inam lands have also been altered by reclaiming the inam lands. So long as the trustee continues to render service in the temple, the trustee can continue in possession of the service inam lands as a permissive occupant and not as owner of the service inam lands. Hence, it is their contention that as the nature of the land is altered, the impugned communication has been passed directing the petitioner to approach the Commissioner under Section 64 of the Tamilnadu Hindu Religious Endowments and Charitable Act 1959. Hence, the same cannot be challenged by way of a Writ Petition.



W.P.No.23431 of 2016

WEB COPY

5. In the reply affidavit, it is the contention of the Writ Petitioner that the members of the petitioner Sangam were and are performing the Kattalai by supplying garlands and flowers to Arulmigu Subramaniaswamy temple for the past several decades. Till date, the members of the petitioner Sangam are in possession of the subject lands and are promptly doing the service contemplated in the Inam Fair Register. It is also stated that the judgment of the Civil Court is binding on the respondent and they cannot go beyond the judgment of the Civil Court.

6. Mr.S.Manokaran, learned counsel appearing for the petitioner mainly would contend that the land was originally inam attached to the service to the temple. It is the contention of the learned counsel for the petitioner, originally the patta stand in the name of the trustee and in order to prevent any misuse by the individual trustee, the revenue records have been changed in the name of the Society. It does not mean that the society altered the nature of the land. In fact, it is the contention of the petitioner that the respondents are bound by the judgment of this Court wherein this Court has clearly held that the trustees cannot use the property for their personal purpose. The land to an extent of two Hectares has been used for



W.P.No.23431 of 2016

WEB COPY

supply flower and garlands to the deities. According to him, the name has been changed only to prevent any misuse by any individual member in the name of the Society. When the Society is a party to the earlier proceedings, the judgment of this Court is binding on the respondents. Further, it is also submitted that as long as petitioner community are in possession of the property, now the respondent cannot indirectly take over the property, as long as the property is taken care of and it is not altered or changed for any other use. Only a compound wall has been put up to prevent encroachment.

7. The learned counsel appearing for the respondent submitted that the impugned communication has been proceeded mainly on the ground that the revenue records originally stood in the name of the trustee Kanchi Ellappa Mudali and the same has been changed in the name of the society. Further, on inspection, they found that 42 pulmaria trees have been removed and some development has also been made and mud road has been laid in the property. Therefore, the impugned Order has been passed directing the petitioner to approach the Commissioner under section 64 of the Tamilnadu Hindu Religious and Charitable Endowments Act, which



W.P.No.23431 of 2016

does not require any interference.

WEB COPY

8. I have perused the entire materials. It is not in dispute that originally a suit has been filed by the Sri Subramanyaswami Devasthanam represented by the Executive Officer of Karvetinagar Trust Estate Sri M.Madhava Rao in O.S.No.50 of 1955 and same has reached upto the Second Appeal in S.A.No.1356 of 1996 and this Court while dismissing the Second Appeal has held as follows :

“The Courts below have found that the service is being properly rendered to the Devasthanam. That is a finding of fact. On that finding the Courts below were right in declining to grant the relief of mandatory injunction. But, it should be made clear that this does not mean that the trustee or trustees of the service are at liberty to use any part or whole of the inam land for their personal purpose. The land of the extent of 2 acres 6 cents and the income there from would together constitute a trust which can only be applied for the purpose of the trust, namely supplying garlands and flowers to the deity.”



W.P.No.23431 of 2016

WEB COPY

In this Second Appeal, this Court has categorically held that the land cannot be used by any of the trustees for personal use and income from the land to an extent of 2.6 hectares to be used for supplying flowers and garlands to the deity. The very Order clearly indicate that the land is meant for supply of garlands and flowers to the deity. The impugned Order does not dispute the service rendered and supply of flowers. The only apprehension of the temple authorities is that some 42 pulmaria tress have been removed and there was some mud road and change of patta in the name of the Secretary of the Sangam and hence, the impugned Order came to be passed. Even in the explanation, it is clearly stated that originally the patta stood in the name of the individual trustee, Kanchi Ellappa Mudali and now it has been changed to the Secretary of the Sangam. Merely because the revenue records have been changed in the name of the Secretary of the Sangam, it cannot be said that the property is the personal property of the Sangam. The Sangam being party to the earlier proceedings are bound by the decision of this Court. As held by this Court, the income from the property has to be utilized for rendering service, viz., supply of flowers to the deity. It is stated that originally there were two wells and now there is one well and some mud road has been



W.P.No.23431 of 2016

WEB COPY

laid, that cannot be a ground for the respondent to pass the impugned Orders.

9. It is to be noted that rendering service is not disputed by the temple authorities. Therefore, merely because some clearance has been made in the property, it does not mean that the entire character of the property is changed. It is also to be noted that that merely because protective measures have been made to prevent encroachment by constructing compound wall, that cannot be a ground to take over entire control of the property, as long as service is properly rendered.

10. It is relevant to note that a suit has been filed and Sangam is already a party to the earlier litigation. As long as service is rendered, the respondent cannot pass the impugned Order based on some complaint by third parties. Mere change of revenue records in favour of the Secretary of the Sangam, it cannot be taken as change of ownership itself. As held by this Court, the property shall be kept only for the purpose of rendering service. It is also made clear that except for cultivating flowers for rendering services, for supplying flowers to the temple, no other activities



W.P.No.23431 of 2016

WEB COPY

shall be carried out in the land. It is also made clear that the property shall not be used for any other purpose except for its object of cultivating flowers for rendering service. No members of the Society or any of the trustee or any individual can claim right over the property and there shall not be any change of character of the property except for cultivation of flowers. It is for the Sangam to ensure that the flowers are regularly cultivated in the land by using modern techniques, but the purpose should be only for cultivation of flowers and no other activities are permitted.

11. With the above direction, this Writ Petition is allowed and the impugned Orders dated 12.04.2016 are set aside. Consequently connected miscellaneous petition is closed. No costs.

**20.02.2023**

Index: Yes/No

Neutral Citation : Yes/No

vrc



W.P.No.23431 of 2016

To,

WEB COPY

1. The Joint Commissioner,  
Hindu Religious and Charitable Endowment Department,  
Vellore – 9, Vellore District.
2. The Assistant Commissioner,  
Hindu Religious and Charitable Endowment Department,  
Tiruvallur, Tiruvallur District.
3. The Inspector,  
Hindu Religious and Charitable Endowment Department,  
Tiruttani, Tiruvallur District.
4. The Executive Officer  
Arulmigu Subramaniaswamy Thirukoil,  
Tiruttani, Tiruvallur District.



WEB COPY



W.P.No.23431 of 2016

**N.SATHISH KUMAR, J.**

VTC

**WP.No.23431 of 2016**

**20.02.2023**