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WP No.21310 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25-07-2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.21310 of 2023

E.Manikandan

... Petitioner

Vs.

1.The District Registrar,
Chennai South Registration District,
Nandanam,
Chennai-600 035.

2.N.Ahmed Yaseen

3.The Joint Commissioner/Executive Officer,
Arulmighu Arunachaleshwar Temple,
Thiruvannamalai,
Thiruvannamalai District.

[R-3 suo motu impleaded vide order of Court
dated 19.07.2023 made in WP 21310 of 2023]

4.The Commissioner,
HR&CE Department,
Nungambakkam,
Chennai-600 034.

[R-4 suo motu impleaded vide order of Court
dated 25.07.2023 made in WP 21310 of 2023] ... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the first respondent to consider the petitioner's representation dated 17.02.2023 to cancel the fraudulent Sale Deeds and General Power of Attorney vide document No.449/ 1996 dated 04.03.1996, document No.604/2000 dated 31.03.2000, on the file of Sub Registrar Office, Adyar and document No.2573/2014 dated 31.10.2014.

For Petitioner : Ms.T.Sreelekha

For Respondent-1 : Mr.C.Jayaprakash,
Government Advocate.

For Respondents-3 and 4 : Mr.N.R.R.Arun Natarajan,
Special Government Pleader
(HR&CE).

ORDER

The writ on hand has been instituted to direct the first respondent to consider the petitioner's representation dated 17.02.2023 and to cancel the fraudulent Sale Deeds and General Power of Attorney vide document No.449/1996 dated 04.03.1996, document No.604/2000 dated 31.03.2000, on the file of Sub Registrar Office, Adyar and document



No.2573/2014 dated 31.10.2014.

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2. The petitioner states that the subject property situate at Arunachalapuram, Adyar, Chennai-600 020, more fully described in the present writ petition, belonging to one late Smt.Ammayi Ammal, W/o.Ramaswamy Mudaliyar. The original owner late Smt.Ammayi Ammal created 'Dharmachattra' in the temple land in the year 1909. She transferred the property in favour of Mr.Sakaraiyya Pandariyar, who was the Executive Trustee of Thiruvannamalai Sri Arunachala Eshwarar Temple Devasthanam. The property was transferred on 30.04.2009 through a 'Will', which was registered as Document No.482 of 1909. The 'Will' was registered in the Office of the Sub Registrar at Saidapet. In the said vacant land, the temples namely 'Jaishree Arunachala Eshwarar Temple' and 'Baktha Bajana Sabha' were established. A Charitable Madam was also functioning there.

3. At the outset, the petitioner states that the property was donated for developing the 'Dharmachattra' in Arunachaleshwarar temple at Thiruvannamalai and the original owner executed a 'Will' in the year 1909.



4. Few greedy men encroached upon the Temple properties in large scale for their personal gains by creating several fraudulent documents in order to cover up their misdeeds and with an idea to validate the encroachments. The Hindu Religious and Charitable Endowments Department and the Temple Authorities have miserably failed to guard the Temple property from the encroachers. Some encroachers have alienated the encroached properties and representations were sent by some devotees. But no timely action was initiated. The petitioner herein too has initiated action by sending representations to the Authorities to evict the encroachers in order to honour and execute the wishes of the Donor of the property and to utilise the Temple land for the purpose for which it was donated by great departed souls.

5. The petitioner has elaborately narrated about the documents, which were registered illegally and those documents and the modus adopted by the encroachers are to be enquired into by the Competent Authorities of the Hindu Religious and Charitable Endowments Department for vacating the encroachers and to resume the Temple land for effective implementation



of the “Will” executed by the original owner late Smt.Ammayi Ammal.

6. The learned Special Government Pleader, appearing on behalf of the respondents 3 and 4 filed set of documents to establish that action has already been initiated not only based on the representation submitted by the petitioner, but also by collecting certain documents from the Revenue Officers and from the Offices of the HR&CE Department.

7. The learned Special Government Pleader drew the attention of this Court with reference to the recent order passed by the Commissioner, HR&CE Department, in proceedings Na.Ka.No.8826/2023/V1 dated 11.07.2023, wherein the Commissioner has considered the request of the petitioner and passed appropriate orders stating that the subject property was donated by the said late Smt.Ammayi Ammal through her 'Will' for the purpose of continuing charity and to celebrate the 'Karthigai Deepam' Festival in Arunachaleshwarar Temple at Thiruvannamalai.



8. The Commissioner of Hindu Religious and Charitable Endowments Department has already traced out the origin of the Temple property through the 'Will' executed by the original owner late Smt.Ammayi Ammal. Illegal alienation by encroaching the Temple properties by few miscreants were also taken cognizance by the Temple Authorities. Thus, actions initiated by the Commissioner of Hindu Religious and Charitable Endowments Department is to be persuaded effectively and sufficiently so as to ensure the resumption of the Temple land and utilise the properties for the benefit of the deity in Arunachaleshwarar Temple at Thiruvannamalai.

9. The Commissioner in his order dated 11.07.2023 has mentioned that the 'Will' executed by the original owner late Smt.Ammayi Ammal, unambiguously, expressed her will and wish to utilise the land for the benefit of the Temple, namely Arunachaleshwarar Temple at Thiruvannamalai. The properties are to be utilised for charity purposes and to celebrate 'Karthigai Deepam' Festival in the Temple. Though the representation submitted by the writ petitioner has been considered, the encroachers are yet to be evicted from the temple properties.



10. As per the respondents, the process of eviction has already commenced and the petitioner may also cooperate by providing details and documents available with him. The process of resumption of temple land is to be expedited the temple lands are to be resumed by following the procedures as contemplated under the Act. In this context, the Commissioner of Hindu Religious and Charitable Endowments Department, Nungambakkam, Chennai-600 034 has been suo-motu impleaded as fourth respondent in the present writ petition.

11. Considering the facts and circumstance, the following orders are passed:

(1) The respondents 3 and 4 are directed to collect all the connected documents pertaining to the Temple properties belonging to the Arunachaleswarar Temple at Thiruvannamalai and initiate all appropriate actions to mutate revenue records by submitting necessary applications to the Revenue Authorities concerned and simultaneously evict the encroachers by following the procedures as contemplated under the provisions of the Hindu Religious and Charitable Endowments Act, 1959.

(2) The respondents 3 and 4 are directed to file objections



immediately to the jurisdictional Registering Authorities to prevent any further illegal alienation of the Temple properties under Section 22-A of the Registration Act, 1908.

(3) The above directions are to be complied with by the respondents concerned with the coordination of the other Departmental Authorities, within a period of six months from the date of receipt of copy of this order.

12. With the above directions, the writ petition stands disposed of. However, there shall be no order as to costs.

Registry is directed to list this matter before this Court under the caption 'For Compliance' on 24.01.2024.

25-07-2023

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
Svn

Note: Registry to carryout necessary amendments in the main writ petition.



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To

- 1.The District Registrar,
Chennai South Registration District,
Nandanam,
Chennai-600 035.
- 2.The Joint Commissioner/Executive Officer,
Arulmighu Arunachaleshwar Temple,
Thiruvannamalai,
Thiruvannamalai District.
- 3.The Commissioner,
HR&CE Department,
Nungambakkam,
Chennai-600 034.
- 4.The District Registrar (Administration),
Registration Department,
Chennai South Registration District,
Nandanam,
Chennai-600 035.

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S.M.SUBRAMANIAM, J.

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