



WEB COPY



Writ Petition No.13508 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :07.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Writ Petition No.13508 of 2023
and WMP.No.13182 of 2023

1. T.K.Dhandapani
2. T.K.Lakshmi Narasimhan ... Petitioners

-Vs-

1. Tahsildar,
Tiruvannamalai Taluk,
Tiruvannamalai District.

2. The Municipal Commissioner,
Tiruvannamalai Municipality,
Tiruvannamalai,
Tiruvannamalai District.

3. The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Tiruvannamalai. ... Respondents

[R3 *suo motu* impleaded vide order dated 28.04.2023 made in W.P.No.13508 of 2023 by SMSJ]

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the 1st respondent to consider the petitioner's representation dated 02.01.2021 made by the petitioners seeking to issue patta in the name of the



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petitioners for the property situated at Tiruvannamalai Town Ward 2, Block 11, in Town Survey No.549 to an extent of 8389 square feet.

For Petitioners : Mr.Arun C Mohan
For Respondents : Mr.D.Ravichander
Special Government Pleader [R1]
Mr.L.P.Maurya [R2]
Mr.K.Karthikeyan
Government Advocate [HR & CE]
[R3]

ORDER

The relief sought for in the present writ petition is to direct the 1st respondent to consider the petitioners' representation dated 02.01.2021 seeking to issue patta in the name of the petitioners for the properties situated at Tiruvannamalai Town Ward 2, Block 11, in Town Survey No.549 to an extent of 8389 square feet.

2. The petitioners state that the subject property is situated at Northern Bank of Iyyankulam in Pavithram Village (lands), Tiruvannamalai District, which was originally granted to the fore father of the petitioners in the year 1808 and their names were registered in the Inam Fair Register. The petitioners state that they are the 7th generation descendants and in possession and enjoyment of the subject property.

3. The Town Survey Field Register for the schedule property



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stands in the name of Hariswami temple. Hariswami was pious saint and the fore father of the petitioners. Therefore, the property belongs to the petitioners' family. The petitioners submitted an application for ryotwari patta, which was granted in the name of the petitioners' forefather. However, the fact remains that the Town Survey Field Register reflects that the property stands in the name of Hariswami temple.

4. The learned counsel for the petitioner reiterated that an application was made to grant patta in the name of the petitioners and the authorities have raised an objection on the ground that the ryotwari patta was cancelled and it was not considered by the competent authorities.

5. Learned Government Advocate appearing on behalf of the Hindu Religious and Charitable Endowment Department, on instructions through letter dated 03.06.2023 made a submission that the land was assigned to the petitioners' family with a condition to perform poojas to Hariswami Samathi and no poojas are being conducted in the Hariswami samathi. Since the obligations are not fulfilled, the petitioners are not entitled for patta in respect of the land and property.

6. High Court cannot conduct a roving enquiry in respect of the



disputed issues, which all are to be adjudicated with reference to the documents and evidences available on record. It is brought to the notice of this Court that applications are pending before the first respondent Tahsildar and an adjudication is yet to be done.

7. Section 6(18) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 defines Religious Institutions, which means a math, temple or specific endowment and includes a samadhi or brindhavan. Therefore, the Hariswami samadhi is falling within the definition of religious institutions under Section 6(18). Section 6(19) defines specific endowment, which means any property or money endowed for the performance of any specific service or charity in a math or temple for the performance of any other religious charity, but does not include an inam of the nature described in explanation (1) to clause (17).

8. In view of the provisions stated supra, the Hindu Religious and Charitable Endowment Department can intervene if the conditional endowment has not been complied with. In the present case, the learned Government Advocate made a submission that no poojas are being conducted by the petitioners or their family members and therefore, the



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H.R. & C.E Department has to necessarily intervene since the Hariswami

Samadhi is a religious institutions within the definition of the Act.

9. May that as it be, this Court is of the considered opinion that the issues are now pending before the Thasildar for adjudication and the Thasildar is empowered to adjudicate with reference to the claim of the writ petitioners for grant of patta or otherwise based on the documents and the grounds raised.

10. In this view of the matter, the first respondent Thasildar is directed to conduct an enquiry by affording an opportunity to all the parties including the H.R & C.E Department officials and thereafter, take a decision and pass orders on merits and in accordance with law within a period of twelve (12) weeks from the date of receipt of a copy of this order.

S.M.SUBRAMANIAM, J.

mp



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With this direction, this writ petition is disposed of. No costs.

Connected miscellaneous petition is closed.

07.06.2023

Index : Yes

Speaking order: Yes

Neutral Citation: Yes/No

mp

To

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Tiruvannamalai Taluk,
Tiruvannamalai District.
2. The Municipal Commissioner,
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Tiruvannamalai,
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