



W.P.No.14614 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.05.2023

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
and

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.14614 of 2023
& W.M.P.No.14096 of 2023

Ganesan

..

Petitioner

Vs.

1. The State of Tamil Nadu
Rep. By its Principal Secretary to Government
Revenue (A1) Department
Fort St.George
Chennai – 600 009
2. The District Collector
Dharmapuri District
Dharmapuri
3. The Revenue Divisional Officer
Dharmapuri Revenue Division
Dharmapuri
Dharmapuri District
4. The Tahsildar
Palacode Taluk
Dharmapuri District

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5. The Revenue Inspector
Marandahalli
Palacode
Dharmapuri District

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus forbearing the respondents and their subordinates from interfering with the peaceful possession and enjoyment of the temple in S.No.150/2 to an extent of 80 cents situated at Marandahalli Village, Palacode Taluk, Dharmapuri District and consequently direct the respondents to issue patta based on the revenue records by considering the representation of the petitioner dated 16.03.2023.

For Petitioner : Mr.K.Balu

For Respondents : Mr.J.Ravindran
Additional Advocate General
Asst. by
Mr.A.Selvendran
Special Government Pleader

ORDER

[Order of the Court was made by C.SARAVANAN, J.,]

The petitioner is aggrieved by the impugned notice issued by the fourth respondent under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 [hereinafter referred to as 'Act']



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2. The specific case of the petitioner is that the land in question has been classified as Temple Poramboke, that the temple is in occupation of the aforesaid land and therefore, the petitioner is entitled to a patta. It is submitted that vide impugned notice, the fourth respondent has concluded that one Udhayakumar is an encroacher.

3. A reference is made to the decision of the Hon'ble Supreme Court in ***Subramanya Swamy Temple, Ratnagiri Vs. V.Kanna Gounder (Dead) by Lrs.*** reported in ***(2009) 3 SCC 306***. Relevant paragraph is paragraph 3 and the same reads as follows:

'3. The classification of 32 acres of land of Survey No.370/1 was made as "Sri Subramanya Swamy Temple, Poramboke". The said classification of temple "poramboke" in the revenue record of rights indicates the reason for which it has been set apart as also its occupation and use. Temple poramboke consists of unassessed wasteland by the Temple. It may also include common passage, water ponds, thrashing floor etc.,'

4. Our attention was also drawn to an order of a Hon'ble Division Bench of this Court dated 11.10.2019 in W.P.Nos.26234 and 26237 of 2018 and an order of another Division Bench of this Court dated 13.06.2022 in W.A.No.126 of 2022 and batch. We find that the impugned notice has been



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issued to one Udhayakumar and not to the petitioner. That apart, in case the petitioner or the said Udhayakumar seek patta to regularize their possession over the land, it is for them to file an appropriate application before the Tahsildar for issuance of patta. There is no merits in the present writ petition challenging the impugned notice dated 31.03.2023. The present writ petition is premature. The petitioner or the said Udhayakumar, who has /have been issued with the impugned notice dated 31.03.2023 have to reply to the same. In case, an adverse order is passed, it is open for them to challenge the order under Section 10 of the Act before the District Collector. Therefore, the present writ petition is liable to be dismissed.

Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed

(A.D.J.C.,J.) (C.S.N.,J.)
04.05.2023

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To

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