



WP No.15737 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2023

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Petition No.15737 of 2018
and
WMP. No.18695 of 2018

N. Vaiyapuri

.. Petitioner

Versus

1. The Commissioner
Hindu Religious & Charitable Endowment Department
Uthamar Gandhi Salai, Nungambakkam,
Chennai.
2. The District Collector
Erode District, Erode
3. The District Revenue Officer
Erode District, Erode.
4. The Revenue Divisional Officer
Erode District, Erode.
5. The Tahsildar
Perundurai Taluk
Perundurai, Erode District.
6. The Assistant Commissioner
HR & CE Department, Perundurai,
Erode District.



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7. The Assistant Commissioner
HR&CE Department
Erode

8. P. Nallasamy

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 4th respondent in Na.Ka.1553/2018/A1 dated 16.04.2018 and quash the same and direct the respondents 2 to 6 to take immediate steps to evict the encroachment made by the 8th respondent who is the member of the Adi Parasakshi Siddhar Peedam in R.S.No.1151/6, Perundurai Village.

For Petitioner : Mr. Singaravelu
for Mr. P.P. Shanmugasundaram

For R1, R6 & R7 : Mr.A.Selvendran
Special Government Pleader

For R2 to R5 : Mr.M.Rajendran,
Additional Government Pleader (HR & CE)

ORDER

[Order of the Court was made by R. MAHADEVAN, J]

Heard the learned counsel for the petitioner, the learned Special Government Pleader appearing for the respondents 1, 6 and 7 and the learned Additional Government Pleader appearing for the respondents 2 to 5.

2. This writ petition has been filed by the petitioner praying to quash the order dated 16.04.2018 passed by the fourth respondent and consequently direct the respondents 2 to 6 to take immediate steps to evict the



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encroachments made by the eighth respondent in the land comprised in

R.S.No.1151/6, Perundurai Village.

3. According to the petitioner, he is the former non-hereditary trustee of Arulmigu Angala Parameswari Temple situated at Neimandi Street, Perundurai Town and Taluk, Erode District, which is an ancient temple constructed several hundred years ago in the land in R.S. No. 838/6. In the revenue records, including the Field Measurement Book (FMB), the land in R.S. No. 838/6 measuring an extent of 0.2100 square meter is shown as "Natham" and subsequently, the land in R.S. No. 838/6 has been sub-divided into R.S. No.1151/6. While so, the eighth respondent encroached a portion of the said land against which the petitioner had given a representation to the second respondent. On the basis of the representation of the petitioner, the fifth respondent conducted a detailed enquiry and submitted his report on 22.11.2017 concluding that the eighth respondent had encroached into the temple land in R.S. No.1151/6. The fifth respondent also concluded that out of 2100 square meter of temple land, 18 cents of lands have been encroached upon by the eighth respondent and his men. The report further disclosed that an over head tank has been constructed by the fifth respondent in the land belonging to the temple and directed removal of the encroachments made in



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the said land. As against the order passed by the fifth respondent, the eighth respondent filed an appeal before the fourth respondent. By proceedings dated 16.04.2018, the fourth respondent allowed the appeal preferred by the eighth respondent on the erroneous reasoning that Adi Parasakthi Thirukovil comes under the control of HR & CE Department. Aggrieved by the same, the petitioner is before this Court with this writ petition.

4. Today, when this writ petition is taken up for consideration, the learned Additional Government Pleader appearing for the respondents 2 to 5, submitted a copy of the written instruction dated 08.02.2023 submitted by the Executive Officer of Arulmighu Angalamman Thirukoil, Perundurai, Erode District. In the written instruction, it has been stated *inter alia* that the land in R.S. No. 838/6, sub-divided into R.S. No.1151/6, where the temple is in existence, is classified as Government Poromboke in the revenue records. It is further stated in the written instructions that already, the Revenue Tahsildar in his proceedings in Na.Ka.No.9258/2016/A8 dated 12.03.2018 had passed an order for eviction of the encroachments, however, the order dated 12.03.2018 passed by the Revenue Tahsildar, to remove the alleged encroachments made by the eighth respondent, has been set aside by the Revenue Divisional Officer, Erode on 16.04.2018, at the instance of the eighth respondent herein.



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Aggrieved by the said order dated 16.04.2018, the petitioner has filed this writ petition.

5. After some arguments, the learned counsel for the petitioner submitted that the eighth respondent has encroached a portion of the land belonging to Angalamman Temple, Erode and the said temple comes within the administrative control of the Joint Commissioner of HR & CE, Erode. It is also submitted that the petitioner has not arrayed the Joint Commissioner of HR & CE, Erode as a party to this writ petition. Therefore, the learned counsel for the petitioner submits that the petitioner may be permitted to approach the Joint Commissioner of HR & CE, Erode for appropriate relief, in accordance with law.

6. In the light of the above submissions of the counsel for the petitioner, it is open to the petitioner to approach the Joint Commissioner of HR & CE, Erode for appropriate relief. In such event, the Joint Commissioner of HR & CE, Erode can consider the claim of the petitioner on merits and in accordance with law after affording an opportunity of hearing to him, the eighth respondent or any other persons concerned and proceed further in accordance with law.



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7. With the above direction, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D., J.]

[M.S.Q., J.]

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Index : Yes / No
Internet : Yes / No
av/rsh

To

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