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W.P.No.43165 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.43165 of 2016
and
W.M.P.No.36999 of 2016

Arulmigu Vadapalani Andavar Thirukoil
Rep.by its Dy.Commissioner / Executive Officer
Vadapalani
Chennai – 600 026.

...Petitioner

Vs.

- 1.The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai – 600 003.
- 2.The Executive Engineer,
Corporation of Chennai,
Zone X, Division No.129,
No.117, N.S.K. Salai,
Kodambakkam,
Chennai – 600 024.
- 3.The Assistant Engineer,
Corporation of Chennai,
Zone X, Division No.129,
No.18, Arunachalam Road,
Saligramam,
Chennai – 600 093.



W.P.No.43165 of 2016

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4. The Tahsildar,
Mambalam Taluk,
K.K. Nagar,
Chennai – 600 078.

..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to survey and demarcate the land measuring 1.92 acres belonging to the petitioner comprised in Survey No.59/1, Veeramamunivar Street, Saligramam, Chennai – 600 093.

For Petitioner : Mr.P.Wilson
For M/s.A.S. Kailasam and Associates

For R1 to R3 : Ms.P.T.Rama Devi
Standing Counsel
(For Chennai Corporation)

For R4 : Mr.S.Ravichandran
Additional Government Pleader

ORDER

The relief sought for in the present writ petition is for a direction to direct the respondents to survey and demarcate the land measuring 1.92 acres belonging to the petitioner comprised in Survey No.59/1, Veeramamunivar Street, Saligramam, Chennai – 600 093.



W.P.No.43165 of 2016

2. The petitioner is Arulmigu Vadapalani Andavar Thirukoil and the Deputy Commissioner / Executive Officer, Vadapalani, filed the affidavit, stating that the petitioner/Temple is owning properties all over Chennai and in specific land measuring 1.92 acres in Survey No.59/1. The petitioner/Temple has been in possession and enjoyment of the same from the time the Temple came under the control of the Hindu Religious and Charitable Endowments Department (hereinafter referred to as 'HR & CE Department') and the ownership and possessory right of the Temple is recognized by the Patta that has been granted in the name of the petitioner/Temple for the subject land measuring 1.92 acres in Survey No.59/1 along with various other pieces of land. Even in the Town Survey Land Register, the Temple is shown to be the registered holder of the said land, which is situate in Block No.17, Saligramam Village.

3. The petitioner states that originally the entire extent of 1.92 acres was a single piece of land and over a period of time, since there were demands from the general public to grant a right of way through the said land, a small road was formed on the said land of 1.92 acres to enable the general public to pass through the same though the ownership of the same



W.P.No.43165 of 2016

remained with the petitioner/Temple. On the western boundary of the said land, there is a compound wall and behind that are private properties. The land is being used by the petitioner as a parking space for mobile generator units for which the petitioner receives monthly rent and this arrangement has been done pursuant to a specific order by the Commissioner, HR & CE Department. The land remains vacant except for parking of the mobile generating units.

4. The petitioner received a letter from the Tahsildar, Mambalam Taluk, the 4th respondent, addressed to the Temple and to the Corporation of Chennai, which referred to W.P.No.32355 of 2007, regarding demarcation of road boundaries at Raja Street, Devaraj Nagar, Saligramam, Chennai – 600 093. The officials of the petitioner / Temple went for the joint inspection on 04.08.2016, pursuant to which the 4th respondent sent a letter dated 04.08.2016.

5. The petitioner states that a copy of the said letter was also marked to the petitioner and to their surprise, they found that a different Writ Petition was referred to in the letter dated 04.08.2016. The letter dated



W.P.No.43165 of 2016

02.08.2016 mentioned that Road boundaries had to be demarcated, the letter dated 04.08.2016 specified removal of encroachments and clearing of drainage lines. The petitioner/Temple gave a reply dated 08.08.2016, specifying that the land of the petitioner in Survey No.59/1 is in Veeramamunivar Street, Saligramam in Survey No.59/1 and that the said land had nothing to do with the land in Block No.16, Raja Street, Devaraj Nagar comprised in T.S.No.9 and 18. The petitioner in and by the said letter also brought to the notice of the 4th respondent as well as the 3rd respondent that in spite of their request that the land situate in Survey No.59/1 also to be measured and the same was not done.

6. The temple gave a letter on 12.09.2016, addressed to the respondents, explaining the position as well as the fact that the land in Block No.16, T.S.Nos.9 and 18, Raja Street, Devaraj Nagar, is distinct and separate from the land belonging to the Temple in Survey No.59/1, Veeramamunivar Street, Saligramam, which belongs to the petitioner/Temple absolutely. The letter has also been personally acknowledged on 12.09.2016. The petitioner has further sent a letter on 03.10.2016, asking the 4th respondent to measure the subject land belonging



W.P.No.43165 of 2016

to the petitioner in Survey No.59/1. The respondents were not initiated any action to survey or measure the land belongs to the petitioner.

7. The respondents are stating that the particular piece of land to be an encroachment by the temple on a water channel, which is factually incorrect. It was not even attempted to be addressed by the 4th respondent or other respondents herein, all of whom were addressees in the letter dated 21.11.2016.

8. The respondents made an attempt to demolish the compound wall. However, the said action was halted by the representatives of the petitioner/Temple and under those circumstances, the petitioner/Temple is constrained to move the present writ petition.

9. In view of the fact that the land belongs to the petitioner/Temple has not been surveyed / measured and demarcated properly, this Court is of the considered opinion that the 4th respondent ought to have conducted survey of the land belongs to the temple with reference to the documents and revenue records available on record. The petitioner/Temple made



W.P.No.43165 of 2016

several representations to survey the land and the said request was not considered by the authorities nor the survey was conducted with reference to the documents submitted by the petitioner.

10. Considering the facts and circumstances, this Court is inclined to pass the following orders:

(1) The 4th respondent is directed to survey the temple land with the assistance of the qualified surveyors and by verifying the documents to be produced by the temple authorities.

(2) The survey is directed to be conducted by the 4th respondent in the presence of the temple authorities.

(3) The 4th respondent is directed to complete the said exercise within a period of two weeks from today and submit a report before this Court on 26.04.2023.



W.P.No.43165 of 2016

WEB COPY 11. With these directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

12.04.2023

Index : Yes
Speaking order
Neutral Citation: Yes
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Note: (i) Registry is directed to issue order copy on 13.04.2023.

(ii) Registry is directed to list the matter 'For Reporting

Compliance' on 26.04.2023.

To

1. The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai – 600 003.

2. The Executive Engineer,
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W.P.No.43165 of 2016

WEB COPY

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W.P.No.43165 of 2016

S.M.SUBRAMANIAM, J.

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W.P.No.43165 of 2016

12.04.2023