



W.P.No.19620 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2023

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.19620 of 2023

P.Ganesan

... Petitioner

Vs.

1.The Joint Commissioner,
Office of the Joint Commissioner,
Hindu Religious and Charitable Endowments Department
Kotaimariamman Temple Campus,
Salem District – 636 001.

2.The Executive Officer,
Arulmigu Kailasanathar Temple,
Tharamangalam Village,
Omalur Taluk,
Salem District – 636 502.

3.The Sub Registrar,
Office of the Sub Registrar,
Tharamangalam Village,
Omalur Taluk,
Salem District – 636 502.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India,



W.P.No.19620 of 2023

to issue a Writ of Mandamus, directing the Second Respondent to issue no objection certificate to the Petitioner with respect to Survey Nos. 128/1A1 and 128/1A4 admeasuring 36 cents situated at Tharamangalam Village, Omalur Taluk for executing any document.

For Petitioner : Mr.R.Rajarajan
for Mr.A.Sathasivam

For R1 and R2 : Mr.S.Yashwanth
Additional Government Pleader (HR & CE)

For R3 : Mrs.S.Anitha
Special Government Pleader

ORDER

The writ petition is filed seeking a direction to 2nd respondent to issue 'No Objection Certificate' in respect of Survey Nos.128/1A1 and 128/1A4 measuring 36 cents situated at Tharamangalam Village, Omalur Taluk for executing any document.

2. According to the petitioner, he and his brother got above mentioned property and adjacent property under a Settlement Deed executed by



W.P.No.19620 of 2023

petitioner's mother dated 26.12.2007. Subsequently, the property covered by the settlement was given sub-division number by the Revenue Department, the petitioner has been in possession and enjoyment above said 36 cents in newly sub-divided S.Nos.128/1A1 and 128/1A4. The petitioner in order to obtain loan from Bank decided to mortgage the above mentioned property. When petitioner attempted to register the mortgage deed, an objection was raised by the 3rd respondent that the S.No.128/1 is registered in their official records as the property of the 2nd respondent/Temple. Therefore, the 3rd respondent directed the petitioner to get 'No Objection Certificate' from the 2nd respondent.

3. The petitioner submitted a representation to 2nd respondent on 30.05.2023 requesting him to issue 'No Objection Certificate' to register his Mortgage Deed in respect of the above mentioned property. Till date, the 2nd respondent has not considered the same.

4. When the matter is taken up for hearing, the learned Additional Government Pleader appearing for respondents 1 and 2 produced the communication sent by the 2nd respondent to the 3rd respondent dated



W.P.No.19620 of 2023

02.05.2019 wherein the disputed S.No.128/1 is mentioned as 'Service Inam Land' belongs to 2nd respondent/Temple. However, the 2nd respondent is unable to produce any document to substantiate the right of the 2nd respondent/Temple in respect of the above said S.No.128/1.

5. It is seen from the communication of the 3rd respondent that survey number in question is mentioned as Temple Land in the guideline register maintained by the 3rd respondent also.

6. In these circumstances, I direct the 1st respondent to conduct an enquiry by issuing notice to the petitioner and also to 2nd respondent and find out whether the 2nd respondent/Temple has got any *prima facie* right over the property situated in Survey Nos.128/1A1 and 128/1A4. In case, the 1st respondent finds the 2nd respondent has no *prima facie* right over the property covered by above said survey numbers, he must issue appropriate direction to the 2nd respondent to issue 'No Objection Certificate' to the petitioner. The enquiry by the 1st respondent shall be completed within a period of twelve weeks from the date of receipt of copy of this order. In case 1st respondent finds that 2nd respondent has got *prima facie* right over the property, the same



W.P.No.19620 of 2023

shall be intimated to the petitioner and it is open to the petitioner to approach the Civil Court to establish his right over the property and get appropriate orders.

7. With the above direction, the writ petition is disposed of. No costs.

04.08.2023

Index : Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No

dm

Note: Issue order copy on 08.08.2023.

To

1. The Joint Commissioner,
Office of the Joint Commissioner,
Hindu Religious and Charitable Endowments Department
Kotaimariamman Temple Campus,
Salem District – 636 001.

2. The Executive Officer,
Arulmigu Kailasanathar Temple,
Tharamangalam Village,
Omalur Taluk,
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3. The Sub Registrar,
Office of the Sub Registrar,
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W.P.No.19620 of 2023

S.SOUNTHAR, J.

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W.P.No.19620 of 2023

04.08.2023