



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

WP No.19211 of 2023
WMP Nos.18440 & 18441 of 2023

Soosaaiya Peter Educational Trust
Rep. by Managing Trustee,
Mr.S.Peter
Madha Nagar, Kundrathur
Chennai 600 069.

...Petitioner

Vs

- 1.The State of Tamil Nadu,
Rep. by the Secretary to Government,
Hindu Religious and Charitable Endowment Department, (HR & CE)
Government of Tamil Nadu,
Secretariat, Fort St. George,
Chennai – 600 009.
- 2.The Commissioner,
Hindu Religious and Charitable Endowment Department,
Nungambakkam,
Chennai – 600 034.
- 3.The District Revenue Officer cum
Sole Officer – I (Temple Properties)
Office of the Commissioner,
Hindu Religious and Charitable Endowment Department,
Nungambakkam,
Chennai – 600 034.



4.Arulmigu Sekkizhar Swami Thirukovil,
Rep. by its Executive Officer,
Kundrathur,
Chennai – 600 069.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the 3rd respondent pertaining to proceedings in Na.Ka.No.70638-2/2022/V2 dated 22.02.2023 and quash the same and consequently direct the respondents 1 to 4 to pass appropriate orders to exchange the land belonging to the 4th respondent situated in S.No.1211/1 Kundrathur Village, Kanchipuram District admeasuring 0.86 cents in exchange for the petitioner's patta in S.No.1081 Kundrathur Village, Kanchipuram District admeasuring 0.86 cents in accordance with G.O.Ms.No.201, Revenue and Disaster Management Department, Land Disposal Wing, LD3(1) Section dated 10.05.2022 and the Judgment of this Court in Review Application (Writ) Nos.169 and 170 of 2021, dated 02.03.2023 within a time frame fixed by this Court.

For Petitioner : Mr.Richardson Wilson

For Respondents : Mr.N.R.R.Arun Natarajan
Special Government Pleader



ORDER

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The issue involved in this writ petition is covered by the earlier order passed by this Court and hence, the main writ petition itself is taken up for final hearing.

2.The petitioner has challenged the impugned proceedings of the 3rd respondent dated 22.02.2023 and has sought for a consequential direction for the exchange of lands belonging to the 4th respondent temple.

3.The case of the petitioner is that the petitioner is a lessee under the 4th respondent temple and is in possession and occupation of S.No.1211/1 measuring an extent of 0.84 cents. The petitioner wanted to exchange a portion of their land with the 4th respondent temple in lieu of the land that is under the occupation and which belongs to the 4th respondent temple.

4.The request made by the petitioner before the 3rd respondent was rejected on the ground that there was an order passed by this Court in W.P.No.574 of 2020, dated 07.06.2021 and in view of the same, the request made by the petitioner cannot be considered. Aggrieved by the same, the present writ petition has been filed before this Court.



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5. Heard Mr. Richardson Wilson, learned counsel appearing on behalf of the petitioner and Mr. N. R. R. Arun Natarajan, learned Special Government Pleader appearing on behalf of the respondents.

6. A similar issue came up before this Court in W.P.No.4774 of 2023 and this Court passed an order on 16.06.2023 in the following terms:

6. When the matter was taken up for hearing today, Mr. Wilson, learned Senior Counsel appearing on behalf of the petitioner brought to the notice of this Court the order passed by the Division Bench in the Review Application Nos.169 and 170 of 2021, dated 02.06.2023. The learned Senior Counsel specifically placed reliance upon Paragraph No.16.1 and for proper appreciation, the relevant portion is extracted hereunder:

As far as exchange of the temple properties is concerned, it is clarified that the land offered in exchange should be in the vicinity where the property situated with unhindered access and proper facilities and utilised only for the temple activities. This issue is answered accordingly.



7.The learned Senior Counsel submitted that by virtue of this clarity given by the Division Bench with respect to exchange of temple properties, the same should be taken into consideration by the respondents and the request made by the petitioner must be acted upon.

8.The learned Senior Counsel appearing on behalf of the petitioner also drew the attention of this Court to G.O.Ms.No.201, dated 10.05.2022, which specifically provided for such transfer of the lands. The learned Senior Counsel also pointed out to the Section 34 of Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 and submitted that there is no bar in transfer of lands and the only requirement is that the proper procedure must be followed.

9.The learned Special Government Pleader appearing on behalf of the respondents submitted that the Division Bench has clarified with regard to exchange of temple properties while passing the orders in the Review Applications and same will be taken into consideration along with the relevant Government Order and the relevant provisions in the Act and the request made by the petitioner will be considered. The learned Special Government Pleader submitted that there was no occasion for the 3rd respondent to deal with the claim made by the petitioner on merits by virtue of the



earlier order passed in W.P.No.574 of 2020. Now that a clarification has been received from the Division Bench, the 3rd respondent will act upon the representation made by the petitioner and a final decision will be taken within the time stipulated by this Court.

10.This Court carefully considered the submissions made on either side. The request made by the petitioner for exchange of land can now been dealt with by the respondents in line with the clarification issued by the Division Bench in the order passed on 02.06.2023 in Review Application Nos.169 and 170 of 2021. It goes without saying that the respondents will also take into consideration the relevant Government Order and also the relevant provisions under the Act and a proper procedure will be followed before a final decision taken by the respondents. This process shall be completed by the respondents, within a period of six months from the date of receipt of copy of this order.

7.This writ petition can also be disposed of in terms of the above order by directing the 2nd respondent to consider the request made by the petitioner for exchange of lands in terms of the order passed by the Division Bench in the Review Application, relevant Government Orders and also the relevant provisions under the Act.



8.It was also brought to the notice of this Court by the learned Special Government Pleader that the proceedings have been initiated under Section 78 of the Hindu Religious and Charitable Endowments Act, 1959 (herein after called as “the Act”) and the petitioner on receipt of the notice has also given the reply and the enquiry is pending. It goes without saying that the said proceedings can also be clubbed along with the request made by the petitioner and a final decision can be taken by the 2nd respondent. The 2nd respondent shall take a final decision in this regard, within a period of six months from the date of receipt of copy of this order. The proceedings initiated under Section 78 of the Act will be subject to the final decision that is to be taken by the 2nd respondent on the request made by the petitioner for exchange of lands.

9.This writ petition is disposed of in the above terms. No Costs.
Consequently, connected miscellaneous petitions are closed.

28.06.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
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N.ANAND VENKATESH, J

SSR

To

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Hindu Religious and Charitable Endowment Department, (HR & CE)
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