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W.P.Nos.29562 of 2022; 9820 and 23127 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2023

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVU

W.P.Nos.29562 of 2022; 9820 and 23127 of 2018

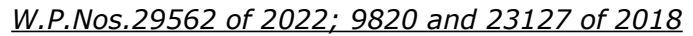
W.P.No.29562 of 2022:

K.Vasusrinivasan

.. Petitioner

Vs

- 1.The Principal Secretary to Government,
Municipal Administration & Water Supply,
Fort St. George,
Chennai-600 009.
- 2.The Principal Secretary to Government,
Department of Tourism, Culture and Endowments,
Fort St. George,
Chennai-600 009.
- 3.The Directorate of Municipal Administration,
75, Urban Administrative Building,
Santhome High Road,
MRC Nagar, Raja Annamalaipuram,
Chennai-600 028.



- W.P.No.9820 of 2018:

E.Prakash .. Petitioner

$$V_S$$

1. The Secretary to the Government,
Department of Tourism, Culture and
Endowments (E5-2) Department,
Fort St. George,
Chennai-600 009.



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2.The District Collector,
Namakkal District,
Namakkal Trichy Road, Namakkal.

3.The Commissioner,
Namakkal Municipality,
Namakkal,
Namakkal District.

.. Respondents

W.P.No.23127 of 2018:

E.Prakash

.. Petitioner

Vs

1.The Municipal Administration & Water Supply Dept.,
rep. by its Principal Secretary,
Fort St. George,
Chennai-600 009.

2.The District Collector,
Namakkal District,
Namakkal Trichy Road, Namakkal.

3.The Commissioner,
Tamil Naud Hindu Religious & Charitable Department,
119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai-600 034.

.. Respondents

Prayer in W.P.No.29562 of 2022: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records of the second respondent in relation to G.O.Ms.No.254 dated 13.10.2016 ad quash the same as being illegal, void and violative of statutory provisions and natural justice and further restraining the respondents 1 to 6 from constructing or



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undertaking any activity in respect of establishing new bus stand at Survey No.306/1, 306/2 and 307, Mudhalaipatti Village, Namakkal Taluk and District.

Prayer in W.P.No.9820 of 2018: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus to call for records on the file of the first respondent in G.O. (Standing) No.254 dated 13.10.2016 and quash the same as illegal and further direct the respondent to produce the report that prompted him to identify Mudalipatti in preference to Thottipati.

Prayer in W.P.No.23127 of 2018: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari to call for records in G.O.(Ms) No.75, dated 24.7.2018 issued by the first respondent and quash the same as illegal, manifestly erroneous and without jurisdiction.

W.P.No.29562 of 2022:

For the Petitioner : Mr.A.K.Sriram
Senior Counsel
for Mr.I.Abrar Md Abdullah

For the Respondents : Mr.P.Muthukumar
State Government Pleader
assisted by
Mr.K.M.D.Muhilan
Addl. Government Pleader
for respondents 1 to 3 & 5

: Mr.R.Shunmugasundaram
Advocate-General
assisted by
Mr.N.R.R.Arun Natarajan
Spl. G.P. (HR&CE)
for respondent No.4



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: Mr.S.Silambanan
Addl. Advocate General
for Mr.M.Rajamathivanan
for respondent No.6

: R7 – No Appearance

W.P.No.9820 of 2018:

For the Petitioner	: Mr.V.Raghavachari Senior Counsel for Mr.K.Govindaraj
For the Respondents	: Mr.P.Muthukumar State Government Pleader assisted by Mr.K.M.D.Muhilan Addl. Government Pleader for respondents 1 and 2
	: Mr.S.Silambanan Addl. Advocate General for Mr.M.Rajamathivanan for respondent No.3

W.P.No.23127 of 2018:

For the Petitioner	: Mr.V.Raghavachari Senior Counsel for Mr.Avinash Wadhwani
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For the Respondents : Mr.P.Muthukumar
State Government Pleader
assisted by
Mr.K.M.D.Muhilan
Addl. Government Pleader
for respondents 1 and 2

: Mr.R.Shunmugasundaram
Advocate-General
assisted by
Mr.N.R.R.Arun Natarajan
Spl. G.P. (HR&CE)
for respondent No.3

COMMON ORDER

(Order of the court was made by the Hon'ble Chief Justice)

Heard Mr.A.K.Sriram and Mr.V.Raghavachari, learned Senior Counsels for the petitioners; Mr.P.Muthukumar, learned State Government Pleader, assisted by Mr.K.M.D.Muhilan, learned Additional Government Pleader for respondent State; Mr.R.Shunmugasundaram, learned Advocate-General, assisted by Mr.N.R.R.Arun Natarajan, learned Special Government Pleader for the HR & CE Department; and, Mr.S.Silambanan, learned Additional



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Advocate General for Mr.M.Rajamathivanan, learned counsel for the
Namakkal Municipality.

2. The Government Orders are assailed. Under the Government Orders, the land of the temple is being utilised for construction of a bus stand.

3. Learned Senior Counsels for the petitioners submit that no procedure has been followed. Without paying the compensation amount, the land of the temple is acquired and is being used for construction of the bus stand. The same is illegal. Under Section 34 of the Tamil Nadu Hindu Religious and Charitable and Endowments Act, 1959, the interest of the temple is paramount. The interest of the temple is not considered by the respondent authorities. The compensation amount in accordance with the Act has not been computed.

4. According to learned Advocate-General, an amount of Rs.7,87,30,760/- is already deposited in the name of deity in a



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fixed deposit. To that effect, the letter of the Commissioner, HR & CE Department, Chennai, dated 24.08.2023, is produced.

5. Learned Advocate-General submits that the respondent authorities would follow the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, "*the Act of 2013*") for acquiring the subject writ land of the temple.

6. The affidavit of the Municipality also states that more than 70% of the work of the bus stand is completed. The construction of bus stand is also for public purpose.

7. It appears that on the basis of the Government Order, the respondent authorities have acted. There is a deviation from the procedure that is required to be followed. The respondent authorities were required to consider the interest of the temple while acquiring the property of the temple. If the property was required for public purpose, then the provisions of the Act of 2013



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ought to have been adhered to before taking over the possession.

8. Now the possession has already been taken by the respondent authorities and also 70% of the construction work of the bus stand is complete. The situation has become irreversible. It would not be prudent to direct demolition of the construction of the bus stand at this stage.

9. The respondent authorities have now come forward to acquire the said land by resorting to the provisions of the Act of 2013.

10. In the light of that, we pass the following order:

(1) The amount deposited shall certainly be for the benefit of the temple.

(2) The respondent authorities shall initiate the process of acquisition as per provisions of the Act of 2013 within three months from today and shall conclude it within the period stipulated under the Act



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of 2013.

(3) The procedure of the Act of 2013 shall be adhered to and followed.

(4) The amount of compensation decided under the award as per the Act of 2013 shall be paid to the temple, after taking note of the amount already deposited.

11. With these observations, the writ petitions are disposed of. There will be no order as to costs. Consequently, W.M.P.Nos.11744, 11745, 27023, 27024, 28945 and 28946 of 2022 are closed.

(S.V.G., C.J.)

(P.D.A., J.)

24.08.2023

Index : Yes/No
Neutral Citation : Yes/No
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To

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- 1.The Principal Secretary to Government,
Municipal Administration & Water Supply,
Fort St. George,
Chennai-600 009.
- 2.The Principal Secretary to Government,
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Fort St. George,
Chennai-600 009.
- 3.The Directorate of Municipal Administration,
75, Urban Administrative Building,
Santhome High Road,
MRC Nagar, Raja Annamalaipuram,
Chennai-600 028.
- 4.The Commissioner,
Hindu Religious and Charitable Endowments Dept.,
119, Uthamar Gandhi Road,
Thousand Lights West,
Nungambakkam,
Chennai-600 034.
- 5.The District Collector,
Namakkal,
Namakkal District.
- 6.The Commissioner,
Namakkal Municipality,
Namakkal,
Namakkal District.



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W.P.Nos.29562 of 2022; 9820 and 23127 of 2018

THE HON'BLE CHIEF JUSTICE
AND
P.D.AUDIKE SAVALU, J.

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