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W.P.No.19940 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.19940 of 2023
and
W.M.P.Nos.19303 and 19307 of 2023

1.K.Vijay Kumar

2.K.Ajay Kumar

... Petitioners

Vs.

- 1.The State of Tamil Nadu,
Rep. by the Principal Secretary to Government,
Department of Tourism,
Culture and Religious Endowments,
Secretariat, Chennai – 600 009.
- 2.The Commissioner,
Hindu Religious & Charitable Endowments Department,
No.119, Uthamar Gandhi Road,
Thousand Lights West,
Chennai – 600 034.
- 3.The Tahsildar,
Ambattur Taluk Office,
Chennai – Tiruvallur High Road,
Gandhi Nagar, Ambattur,
Tamil Nadu – 600 053.



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4.The District Collector,
Chennai District,
No.62, Fourth Floor,
Rajaji Salai, Beach Road,
George Town, Chennai – 600 001.

5.The Tamil Nadu Housing Board,
Rep. by its Chairman & Managing Director,
CMDA Complex, E&C Market Road,
Koyambedu, Chennai – 600 107.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 3rd respondent to issue a patta with respect to the property being land and superstructure in Plot No.H-1, HIG Type, 35th Street, T.V.S. Avenue, Anna Nagar West Extension, Chennai – 600 101, comprised in Survey Nos. 269/1B (part) and 273 (Part) of Padi Village, Ambattur Taluk, Thiruvallur District land measuring an extent of 2749 square feet, without insisting on the issuance of a No Objection Certificate from the 2nd respondent for the same.

For Petitioner : Mr.Anish Gopi

For R1, R3 & R4 : Mr.E.Sundaram,
Government Advocate

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



WEB COPY

W.P.No.19940 of 2



ORDER

The relief sought for in the present writ petition is to direct the third respondent to issue a patta in respect of the property in Plot No.H-1, HIG Type, 35th Street, T.V.S. Avenue, Anna Nagar West Extension, Chennai – 600 101, comprised in Survey Nos. 269/1B (part) and 273 (Part) of Padi Village, Ambattur Taluk, Thiruvallur District land measuring an extent of 2749 square feet, without insisting on the issuance of No Objection Certificate from the second respondent.

2. The petitioners state that they are the absolute owner of the property more fully described in the writ petition. The petitioners have submitted an application for grant of patta. The Tahsildar, Ambattur Taluk, on verification of the revenue records, found that the subject property belongs to Sri Thiruvallieswarar Temple (hereinafter referred to as 'the Temple' for short). As per the revenue records, the Tahsildar, Ambattur Taluk, passed an order on 24.12.2021 stating that the subject property belongs to the Temple and therefore, the petitioner has to obtain No Objection Certificate from the Hindu Religious and Charitable Endowments Department.



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3. The learned counsel for the petitioners states that an award was passed in the land acquisition proceedings that the subject land belongs to the writ petitioners and therefore, based on the wrong Survey Number, the order dated 24.12.2021 was passed.

4. Pertinently, the order dated 24.12.2021 issued by the Tahsildar, Ambatur Taluk, was communicated to the 2nd petitioner. Instead of establishing his title through the competent Civil Court of law, the petitioners are again approaching the authorities to submit various objections.

5. Once objections are raised by the Temple authorities and the revenue authorities verified that the property claimed by the petitioners belongs to the Temple as per the revenue records, then the parties are to be relegated to approach the competent Civil Court of law for the purpose of establishing their title or ownership. Contrarily, they cannot submit their representation again and again to the authorities concerned, who will not be in a position to decide the title or ownership.



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6. The learned counsel for the petitioners made a submission that the authorities may be directed to consider their representation. Such directions would do no service to the cause of justice. The litigants would be back again before the High Court for seeking further relief. That apart, the revenue authorities are incompetent in deciding the title or ownership. Directions to consider the representation further would pave way for corrupt activities with the collusion of the parties. Therefore, the High Court is expected to decided the issues on merits at all circumstances and only on certain exceptional cases, if any statutory applications are filed then directions are to be issued to dispose of the application / appeal, as the case may be. In such nature of cases were disputed issues are available, directions to consider the representation will do further prejudice to either of the parties and thus, the petitioners are at liberty to approach the competent Civil Court of law for the purpose of establishing their title or ownership in the manner known to law. In such an event, the Temple and the Hindu Religious and Charitable Endowments Department also must be impleaded as a party in the petition. This being the factum established, the



petitioner has not established any acceptable ground for the purpose of considering the writ petition.

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7. Accordingly, the writ petition stands dismissed. Consequently, the connected miscellaneous petitions are closed. No costs.

07.07.2023

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Index : Yes

Speaking order

Neutral Citation : Yes

To

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- 2.The Commissioner,
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WEB COPY

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