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W.P. No. 29507 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2023

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

W.P. No. 29507 of 2023

and

W.M.P. No. 29127 of 2023

Sri Pidari Ettiamman Trust,
Represented by its Chairman T.H.Rajmohan,
No. 68/3, Kulakarai Street,
Thirumullaivoyal,
Chennai – 600062.

... Petitioner

-VS-

1. The District Collector,
Thiruvallur District,
Thiruvallur.
2. The Secretary to Government,
Hindu Religious and Charitable Endowments Department,
Secretariat,
Fort St.George,
Chennai – 600009.
3. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
No. 119, Uthamar Gandhi Road,
Chennai – 600034.
4. The Tahsildar,
Office of Avadi Taluk,
Pattabiram,
Chennai – 72.



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5. The Commissioner,
Avadi Municipality,
Avadi, Chennai – 600054.

6. The Executive Officer,
Thakkar / Administrative Officer,
Hindu Religious and Charitable Endowments Department,
Thiruvalléeswarar Thirukovil,
Padi, Chennai – 600050.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, forbearing the First, Fourth and Fifth Respondents from removing, altering or disturbing any statues, idols or structures in the Petitioner's temple and not to disturb with the peaceful possession and enjoyment of the Petitioner's temple property viz., “Arulmigu Piddari Ettiamman Temple” comprised in Survey No. 247/(part) measuring to an extent of 97 cents, T.S. No. 38, Ward-D, Block No. 23 of Thirumullaivoyal Village, Avadi Taluk, Thiruvallur District.

For Petitioner : Mr. S.John Josh

For Respondents : Mr. U.Baranidharan,
Additional Government Pleader
(for R1 & R4)

Mr. K.Karthikeyan,
Government Advocate
(for R2, R3 & R6)

Mr. R.Gopinath (for R5)



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ORDER

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Heard Mr. S.John Josh, Learned Counsel for the Petitioner, Mr.

U.Baranidharan, Learned Additional Government Pleader appearing for the First and Fourth Respondents, Mr. K.Karthikeyan, Learned Government Advocate appearing for the Second, Third and Sixth Respondents and Mr. R.Gopinath, Learned Counsel for the Fifth Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner, viz., Sri Pidari Ettiamman Trust, which claims to have been registered under the Indian Trusts Act, 1882, under Document No. 13/16 in the office of the Sub-Registrar, Ambattur, seeks to espouse the cause of Arulmigu Piddari Ettiamman Temple (hereinafter referred to as 'the Temple' for short) that the First, Fourth and Fifth Respondents must be restrained from removing, altering or disturbing any statues, idols or structures of that Temple and they should not disturb the peaceful possession and enjoyment of the property measuring an extent of 97 cents comprised in Survey No. 247/(part), T.S. No. 38, Ward-D, Block No. 23, Thirumullaivoyal Village, Avadi Taluk, Tiruvallur District.

3. According to the First, Fourth and Fifth Respondents, the said land has



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been classified in the revenue records as 'Government Palmira Thopu' and though Ettiamman Temple is located in an extent of 5522 sq. ft. and Angalaparameswariamman Temple is located in an extent of 452 sq. ft. in the said property, the surrounding lands are vacant and it is proposed to construct a Primary Health Centre in that property under the control of the Fifth Respondent.

4. It is represented by Learned Government Advocate appearing for the Second, Third and Sixth Respondents that the Sixth Respondent by representation dated 04.10.2023 has raised objection for the said construction of the Primary Health Centre in the said property by highlighting that the said land is used by the Temple for its activities, which has been noticed in the Report dated 01.10.2019 submitted by the Advocate Commissioner appointed by this Court by order dated 28.08.2019 in W.P. No. 20934 of 2019 for conducting survey of the properties of the Temple.

5. Having regard to the rival claims of the contesting parties, it is evident that the matter falls under the realm of disputed questions of fact, which ought not to be entertained in proceedings under Article 226 of the Constitution following summary procedure. The Hon'ble Supreme Court of India in the



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decision in ***Sawarni -vs- Inder Kaur*** [(1996) 6 SCC 223] has held that mutation in revenue records neither creates nor extinguishes title, nor does it have any presumptive value on title. All it does is entitle the person in whose favour mutation is done to pay the land revenue in question. It has been reiterated in ***Balwant Singh -vs- Daulat Singh*** [(1997) 7 SCC 137] that mere mutation of records would not divest the owners of a land of their right, title and interest in the land. It must also be recapitulated here that the Hon'ble Supreme Court of India in the decision in ***Roshina T. -vs- Abdul Azeez K.T.*** [(2019) 2 SCC 329] has cautioned that such rival claims for title would have to be decided only in a properly framed suit impleading necessary parties before the civil court. In that view of the matter, this Court is not inclined to express any view on the merits of the controversy involved between the contesting parties.

6. However, in an effort to amicably resolve the disputes between the contesting parties, the District Collector, Tiruvallur (First Respondent) shall conduct a meeting with the Joint Commissioner, Hindu Religious and Charitable Endowments Department, Chennai, the Commissioner, Avadi Corporation and the Executive Office of the Temple and discuss the matter threadbare so as to ascertain whether any acceptable solution could be reached to satisfaction of all parties. As a temporary arrangement, the proposed



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construction of Primary Health Centre for the Fifth Respondent shall be deferred till that exercise is completed, and depending upon its ultimate outcome, the concerned parties may proceed further to work out their rights in accordance with law.

In the result, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

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Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 22.03.2024.

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To

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P.D. AUDIKESAVALU, J.

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