



WEB COPY



W.P. No. 30829 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2023

CORAM

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

W.P. No. 30829 of 2023

and

W.M.P. No. 30502 of 2023

J.Kaladevi

... Petitioner

-VS-

1. The Commissioner,
Tiruppur Corporation,
Tiruppur.

2. The Assistant Commissioner,
Zone – 4, Tiruppur Corporation,
Tiruppur.

3. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Veeraragava Perumal Temple Complex,
Easwaran Koil Street,
Tiruppur – 641 604.

4. The Executive Officer,
Arulmighu Visweswara Swamy Veeraraghava Perumal Temple,
Tiruppur.
(R4 is *suo motu* impleaded vide this order)

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the entire records of the Second Respondent in Na. Ka. No. E1/1922/2022/Z4 dated 05.09.2023 and quash the same as arbitrary and illegal and further direct the



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First and Second Respondents herein to consider Petitioner's Application for Planning Permit & Building Permit in No. 032/CP/23-24/53876 dated 02.08.2023 and grant planning Permit and Building Permit for construction of a building at land comprised in S.F. No. 138/2 measuring an extent of 2.04 Acres situated at Tiruppur Village now bearing New T.S. No. 1, Block – 59, Ward–A (Old T.S. No. 77/1, Block – 5, Ward-I), Tiruppur Town, Tiruppur Taluk, Tiruppur District.

For Petitioner : Mr. V.P.Sengottuvel,
Senior Counsel
for Ms. K.Indupriya

For Respondents : Mr. Abishek Murthy (for R1 & R2)

Mr. C.Jayaprakash,
Government Advocate (for R3)

Ms. G.Sumitra (for R4)

ORDER

The Petitioner, who claims to be the owner of the property situate at Survey No. 138/2 bearing New T.S. No. 1, Block – 59, Ward–A (Old T.S. No. 77/1, Block – 5, Ward-I), Tiruppur Town, Tiruppur Taluk, Tiruppur District, had made an application no. 032/CP/23-24/53876 dated 02.08.2023 for Building Permit to the First Respondent. However, the Second Respondent by Proceedings in Na. Ka. No. E1/1922/2022/Ma4 dated 05.09.2023 sought for 'no



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objection' certificate from the Third Respondent as it had been informed to him that the said property has been mentioned as belonging to Arulmigu Visweswara Swamy Veeraraghava Perumal Temple, Tiruppur (hereinafter referred to as 'the Temple' for short). The said order is challenged by the Petitioner in this Writ Petition.

2. Since it has been brought to notice that the property belongs to the Temple as per the entries in the revenue records, in order to effectually and completely adjudicate upon the matter, the Executive Officer, Arulmighu Visweswara Swamy Veeraraghava Perumal Temple, Tiruppur is *suo motu* impleaded as the Fourth Respondent in the Writ Petition.

3. Heard Mr. V.P.Sengottuvel, Learned Senior Counsel assisted by Ms. K.Indupriya, Learned Counsel for the Petitioner, Mr. Abishek Murthy, Learned Counsel, who takes notice for the First and Second Respondents, Mr. C.Jayaprakash, Learned Government Advocate, who takes notice for the Third Respondent, and Ms. G.Sumitra, Learned Counsel, who takes notice for the Fourth Respondent, and perused the materials placed on record, apart from the pleadings of the parties.



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4. Having regard to the rival claims of title to the property between the Petitioner and the Fourth Respondent, it is evident that the nature of relief claimed by the Petitioner falls within the realm of disputed questions of fact, which cannot be effectively determined by this Court in proceedings under Article 226 of the Constitution following summary procedure. It must 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 claims relating to property rights would have to be answered one way or the other only in a properly framed suit impleading necessary parties before the civil court. In such circumstances, the Petitioner has not been impeded from canvassing what is sought to be agitated in this Writ Petition in the said remedy and there is no acceptable explanation from the Petitioner for not having availed it. It would obviously follow that it is only in the event that the Petitioner first establishes her title to the property claimed against the Fourth Respondent before the civil court that she could seek for Building Permit for the property from the First and Second Respondents. In that view of the matter, this Court is not inclined to entertain this Writ Petition or delve into the merits of the controversy involved.



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

01.11.2023

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 05.06.2024.

vjt

To

1. The Commissioner,
Tiruppur Corporation,
Tiruppur.
2. The Assistant Commissioner,
Zone – 4, Tiruppur Corporation,
Tiruppur.
3. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Veeraragava Perumal Temple Complex,
Easwaran Koil Street,
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4. The Executive Officer,
A/m. Visweswara Swamy Veeraraghava Perumal Temple,
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P.D. AUDIKESAVALU, J.

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