



WEB COPY



W.P. No. 32862 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2023

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

W.P. No. 32862 of 2023

and

W.M.P. No. 32495 of 2023

V.Kuppusamy

... Petitioner

-VS-

1. The District Collector,
Thiruvannamalai District,
Thiruvannamalai – 606 601.
2. The Commissioner,
Hindu Religious & Charitable Endowments,
(Administration) Department,
Uthamar Gandhi Adigalsalai,
Nungambakkam,
Chennai – 600034.
3. The Assistant Director,
District Town & Country Planning,
Thiruvannamalai District,
No. 27, Manalurpettai Salai,
Thiruvannamalai – 606 601.
4. The President,
Perungattur Panchayat,
Venbakkam Panchayat Union,
Venbakkam Circle,
Thiruvannamalai District – 606 601.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, to call for the records



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on the file of the Fourth Respondent in letter dated 03.10.2023 and quash the same as illegal, incompetent and without jurisdiction and further direct the Fourth Respondent to approve the layout of Road in accordance with the order passed by the Third Respondent in Proceedings Na.Ka.No. 950/2022/Thi.Malai dated 17.10.2022 and for consequential orders.

For Petitioner : Mr. Avinash Wadhwani

For Respondents : Mr. S.J.Mohamed Sathik,
Government Advocate (for R1 and R3)

Mr. N.R.R. Arun Natarajan
Special Government Pleader (for R2)

Mr. S.Ravichandran (for R4)

ORDER

Heard Mr. Avinash Wadhwani, Learned Counsel appearing for the Petitioner, Mr. S.J.Mohamed Sathik, Learned Government Advocate appearing for the First and Third Respondent and Mr. N.R.R. Arun Natarajan, Learned Special Government Pleader appearing for the Second Respondent, Mr. S.Ravichandran, Learned Counsel appearing for the fourth Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner had sought for granting approval of lay-out for the property measuring an extent of 33 cents situate at Survey No. 714/3A,



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Perungatur Village, Cheyyar Taluk, Tiruvannamalai District (hereinafter referred to as 'the property' for short) said to be belonging to him. The Fourth Respondent by Proceedings in Na.Ka. No. 950/ 2022/Thi. Malai dated 17.10.2022 sent to the Third Respondent informed that the said property stands in the name of Arulmighu Venugopalaswamy Temple (Bajanai Kovil), which is challenged in this Writ Petition.

3. Learned Special Government Pleader appearing for the Second Respondent has filed a memo dated 23.11.2023, which reads as follows:-

“ Arulmighu Vaikuntha Perumal Temple, Thenkalani Village, Vembakkam Taluk, Tiruvannamalai District (ITMS Code.24592) is classified as under Section 49(1) of the Tamil Nadu HR & CE Act and comes under the control fo HR & CE Department. The Inspector, HR & CE, Cheyyar by letter dated 09.09.2022 addressed to the Sub Registrar, Vembakkam, Tiruvannamalai District had requested not to register any document in respect of S.F.No.714/3A measuring an extent of 0.33 cents punjai land situated at Perungattur Village, Vembakkam Village, Tiruvannamalai District.”



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4. It is evident that the nature of relief claimed by the Petitioner falls within the realm of disputes question 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. It is needless to add here that no view has been expressed by this Court on the merits of the controversy involved.

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

23.11.2023

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 31.05.2024.

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P.D. AUDIKESAVALU, J.

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