



W.P. No.735 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 26.06.2023

CORAM:

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR. JUSTICE P.DHANABAL

W.P. No.735 of 2020
and WMP.No.891 of 2020

V.Narasimhan,
Hereditary Trustee of the
Arulmighu Amachar-Potharaja Temple,
Son of the late Venkataramannaidu,
No.100, Mariyamman Koil 10th Street,
Tiruvannamalai Town and District.

.. Petitioner

Versus

1. The District Collector,
Tiruvannamalai District.
2. The District Revenue Officer,
Tiruvannamalai District.
3. The Tahsildar,
Tiruvannamalai Taluk & District.
4. The Revenue Divisional Officer,
Tiruvannamalai Taluk & District.
5. The Commissioner,
Tiruvannamalai Municipality,
Tiruvannamalai.



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6. The Special Commissioner,
Hindu Religious & Charitable Endowments Department,
Nungambakkam,
Chennai 600 034.
7. The Joint Commissioner,
Hindu Religious & Charitable Endowments Department,
Villupuram.
8. The Assistant Commissioner,
Hindu Religious & Charitable Endowments Department,
Tiruvannamalai District.
9. M.Kannan

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Mandamus directing the 5th respondent to consider the petitioner's representation dated 16.10.2019 at earliest and consequently direct the concerned authority to initiate necessary action to stop the further unauthorized construction work to be done by the 9th respondent in the part of the temple property bearing Door No.189-C, 12th Mariyamman Koil Street, Tiruvannamalai Town and Taluk out of the total extent of 5.10 Acres comprised in S.No.346, Patta No.1446, Block No.10, Ward No.4 situated at Tiruvannamalai Town and District.

For petitioner : Mr.B.Ramakrishnan

For respondents

for RR1 to 4	: Mr.E.Vijay Anand, AGP
for R5	: Mr.P.Srinivas, Standing Counsel
for RR6 to 8	: Mr.K.Karthikeyan, G.A. (HR & CE)
for R9	: No Appearance



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ORDER

(The Order of the Court was made by D.KRISHNAKUMAR, J)

The present Writ Petition has been filed seeking for a Mandamus directing the fifth respondent to stop the unauthorized construction put up by the ninth respondent in the Temple property based on the petitioner's representation dated 16.10.2019.

2. It is the case of the petitioner that he is the hereditary trustee of the the petitioner Temple. While so, he along with his brother gave General Power to one Velu. The said Velu filed OP.No.1 of 2003 before the Principal District Court, Tiruvannamalai under Section 34 of the Indian Trust Act seeking permission to sell the said property and the same was allowed on 30.07.2003. The said property was purchased by one Thennarasu and in turn he sold some of the plots to the public. Challenging the said order dated 30.07.2003, petitioner's mother and sisters filed



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CRP(NPD) No.3067 of 2007 before this Court and the H.R. & C.E.

Department also filed CRP(NPD) No.1840 of 2008. After going through rival submissions, both the Revision Petitions were allowed remanding the matter back to the District Court with a direction of no further alienation, construction or sale. As per the said order, the property is now vested with the Temple.

3. The learned counsel for the petitioner submitted that in the above said circumstances, the ninth respondent, who is one of the illegal occupant of the Temple property, has put up unauthorised construction. Therefore, the petitioner made a representation dated 16.10.2019 to stop further construction. However, no action has been taken and hence, the present Writ Petition.

4. The learned Standing Counsel appearing for the fifth respondent states that as stated by the petitioner, if the property of the Temple is restored, the petitioner shall make an application before the respondent



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Municipality for demolition of the unauthorised construction along with necessary fee. Thereafter, the respondent Municipality will take necessary action as per law.

5. Heard Mr.B.Ramakrishnan, learned counsel for the petitioner and Mr.E.Vijay Anand, learned Additional Government Pleader appearing for the respondents 1 to 4, Mr.P.Srinivas, learned Standing Counsel appearing for the fifth respondent and Mr.K.Karthikeyan, learned Government Advocate (HR & CE) appearing for the respondents 6 to 8.

6. Though notice to the ninth respondent was served and his name is printed in cause list, none appears for him.

7. It is the submission of the learned counsel for the petitioner that the Temple property was sold as per the order passed in O.P.No.1 of 2003 however, the same was restored by the Temple, vide order of this Court dated 15.12.2011 passed in CRP(NPD) Nos.3067 of 2007 and 1840 of 2008. It is the contention of the petitioner that the property is now vested with the



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Temple and if so, this Court could not understand why the petitioner has come before this Court for demolition of his own property.

8. However, considering the facts and submissions of both side, this Court directs the petitioner to make a fresh application before the respondent Municipality along with necessary fee for demolition of the unauthorised construction put up by the ninth respondent within a period of four weeks from the date of receipt of a copy of this order. Thereafter, the official respondents shall consider the said application and take necessary action as per law after providing opportunities to all the parties including the petitioner and the ninth respondent herein. If the respondent Municipality finds that if there is any unauthorised construction, they shall take appropriate action as per law. The above action should be completed within a period of twelve weeks from the receipt of fresh application from the petitioner.

9. With the above observations and directions, the Writ Petition



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stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J] [P.D.B., J]
26.06.2023

Speaking order: Yes/No
Index : Yes/No
pvs

To

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2. The District Revenue Officer,
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3. The Tahsildar,
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