



W.P. No. 35563 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2023

CORAM

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

W.P. No. 35563 of 2023

and

W.M.P. Nos. 35506 and 35508 of 2023

J.Sudharambal

... Petitioner

-VS-

1. The Government of Tamil Nadu,
Represented by its Principal Secretary,
Hindu Religious and Charitable Endowments Department,
Fort St. George,
Secretariat,
Chennai – 600 009.
2. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
No. 119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai – 600 034.
3. The District Collector,
Madurai District,
Madurai.
4. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Ellis Nagar,
Madurai.
5. The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Madurai.



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6. The Tahsildar,
Vadipatti Taluk,
Madurai District.

7. The Commissioner of Police,
Alagarkovil Road,
Madurai City,
Madurai – 625 002.

8. The Superintendent of Police,
Idol Wing – CID,
Police Training College – First Floor,
Ashok Nagar,
Chennai – 600 083.

9. The Block Development Officer,
Madurai,
Madurai District.

10. C.Balu

11. Muniyandi

12. Shantees

... 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 records pertaining to the impugned order passed by the Second Respondent in Moo. Mu. No. 25901/2017/D1 dated 26.07.2017, quash the same and consequently direct the First to Fifth Respondents to take up the temple administration and recover the properties of the said Temple situated at Sambakulam Village under S. Nos. 76, 77, 78, 79, 83, 38, 39, 93, 238, 94, 95, 93, 90, 88, 89 in Patta No. 2.



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For Petitioner : Ms. J.Padhmaavathi Devi

For Respondents : Mr. C.Jayaparakash,
Government Advocate
(for R1, R2, R4 & R5)

Mr. S.J.Mohamed Sathik,
Government Advocate (for R3 & R6)

Mr. S.Rajkumar,
Additional Public Prosecutor
(for R7 & R8)

Mr. M.Alagu Gowtham (for R9)

ORDER

Heard Ms. J.Padhmaavathi Devi, Learned Counsel for the Petitioner, Mr. C.Jayaparakash, Learned Government Advocate, who takes notice for the First, Second, Fourth and Fifth Respondents, Mr. S.J.Mohamed Sathik, Learned Government Advocate, who takes notice for the Third and Sixth Respondents, and Mr. S.Rajkumar, Learned Additional Public Prosecutor, who takes notice for the Seventh and Eighth Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition has been filed challenging the Order in Moo. Mu.



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No. 25901/2017/D1 dated 26.07.2017 passed by the Second Respondent

directing the Fifth Respondent to drop the action taken for bringing Arulmighu Thiraviyalingeswarar Samadhi, Keerathurai Village, Madurai District under the control of the Hindu Religious and Charitable Endowments Department and to consequently direct the First to Fifth Respondents to take up the administration of that Temple and recover its properties in Suvery Nos. 76, 77, 78, 79, 83, 38, 39, 93, 238, 94, 95, 93, 90, 88, 89 and Patta No. 2, Sambakulam Village, Madurai District

3. It is borne out from the materials placed on record that the matter in dispute relates to Arulmighu Thiraviyalingeswarar Samadhi, Keerathurai Village, Madurai District situated within the territorial limits of jurisdiction of the Madurai Bench of this Court. The only reason stated by the Petitioner for approaching the Principal Seat of this Court instead of Madurai Bench is that the offices of the First, Second and Eighth Respondents are located in Chennai. There cannot be any doubt that the First, Second and Eighth Respondents exercise powers for the whole of the State of Tamil Nadu, but it cannot mean as if the cause of action has arisen within the territorial limits of jurisdiction of the Principal Seat of this Court at Chennai. Even if it is assumed that a part of cause of action has arisen within the territorial limits of jurisdiction of this



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Court, the principle of *forum conveniens* would come into play as held by the

Division Bench of this Court in **C.Ramesh -vs- Director General of Police**

(Order dated 06.06.2013 in W.P. (MD) No. 8790 of 2013), as follows:-

“7. *Exercise of jurisdiction is based on arising of the cause of action, either in whole or in part in any one of the said Revenue Districts. [See RAJASTHAN HIGH COURT ADVOCATES' ASSOCIATION Vs. UNION OF INDIA AND OTHERS (2001 (2) SCC 294) and B.STALIN Vs. THE REGISTRAR, SUPREME COURT OF INDIA AND OTHERS (2012 (3) LW 489 (FB))].*

8. *It should be remembered that the part of cause of action must be substantial in nature. The territorial jurisdiction of the Court is linked with the place of accrual of cause of action. [See U.P. RASHTRIYA CHINI MILL ADHIKARI PARISHAD, LUCKNOW Vs. STATE OF U.P. AND OTHERS (1995 (4) SCC 738)].*

9. *Referring to KUSUM INGOTS & ALLOYS LTD. Vs. UNION OF INDIA (2004 (3) CTC 365), a Full Bench of this Court in SANJOS JEWELLERS Vs. SYNDICATE BANK, BANGALORE*



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AND OTHERS (2007 (5) CTC 305), held as under:-

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"30. We must, however, remind ourselves that even if a small part of cause of action arises within the territorial jurisdiction of the High Court, the same by itself may not be considered to be a determinative factor compelling the High Court to decide the matter on merit. In appropriate cases, the Court may refuse to exercise its discretionary jurisdiction by invoking the Doctrine of forum conveniens. [See BHAGAT SINGH BUGGA Vs. DEWAN JAGBIR SAWHNEY, AIR 1941 CAL 670 : ILR (1941) 1 CAL 490; MADANLAL JALAN Vs. MADANLAL, 1945 (49) CWN 357: AIR 1949 CAL 495; BHARAT COKING COAL LTD. Vs. JHARIA TALKIES & COLD STORAGE (P) LTD., 1997 CWN 122; S.S.JAIN & CO. Vs. UNION OF INDIA, 1994 (1) CHN 445, and NEW HORIZONS LTD. Vs. UNION OF INDIA, AIR 1994 DEL 126]."

10. Question of entertaining a lis disclosing a cause of action or part of cause of action is based on the averments contained in the affidavit etc. At that stage, the truth or otherwise of the



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averments need not be gone into. But, there must be necessary averments disclosing a cause of action, so that the Court can take cognizance of/entertaining the lis exposed in the petition for taking further action. [See OIL AND NATURAL GAS COMMISSION Vs. UTPAL KUMAR BASU AND OTHERS (1994 (4) SCC 711)].

11. A Court cannot arrogate/assume/confer upon itself a jurisdiction-territorial jurisdiction, when it has no such jurisdiction. Lack of jurisdiction to entertain a matter goes to the root of the matter, otherwise whatever action taken or orders passed by the Court becomes a nullity, it is non est and of no consequence at all resulting in wasting of precious public time. Courts are barred from indulging in hypothetic and academic exercises.”

Having regard to the aforesaid legal position *viz-a-viz* factual matrix of this case, the cause of action for the Writ Petition, would have to be necessarily construed as having arisen wholly outside the territorial limits of jurisdiction of the Principal Bench of this Court, notwithstanding that the offices of the First, Second and Eighth Respondents are located in Chennai.



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4. When it is pointed out that the Writ Petition cannot be entertained in the Principal Seat of this Court in that backdrop, Learned Counsel for the Petitioner seeks permission of the Court to withdraw this Writ Petition with liberty to file fresh Writ Petition for the same relief impleading Arulmighu Thiraviyalingeswarar Samadhi, Keerathurai Village, Madurai District as a party, before the Madurai Bench of this Court and she has made an endorsement to that effect in the court record.

In fine, the Writ Petition is dismissed as withdrawn granting such liberty. Consequently, the connected Miscellaneous Petitions are closed. No costs.

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Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 02.01.2024.

vjt

To

1. The Principal Secretary Government of Tamil Nadu,
Hindu Religious and Charitable Endowments Department,
Fort St. George,
Secretariat,
Chennai – 600 009.



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2. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
No. 119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai – 600 034.
3. The District Collector,
Madurai District,
Madurai.
4. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Ellis Nagar,
Madurai.
5. The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Madurai.
6. The Tahsildar,
Vadipatti Taluk,
Madurai District.
7. The Commissioner of Police,
Alagarkovil Road,
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