



W.P.No.26021 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:07.08.2023

Delivered on: 20.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P.B.BALAJI

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&

W.M.P.No.30237 of 2018

Thiruvalléeswarar Nagar Cooperative
Housing Society Limited
rep. by its President A.Arockiasamy
No.114, Sundarar Street
Thiruvalléeswarar Nagar
Anna Nagar West, Chennai-600 040

...Petitioner

Vs.

1. The Government of Tamil Nadu
rep by additional Secretary
Housing and Urban Development Department
Secretariat, Chennai-600 009.

2.The Commissioner
Hindu Religious and Charitable Endowment Board
Nungambakkam High Road
Nungambakkam, Chennai-600 034.



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3.The Tamil Nadu Housing Board
rep by its Managing Director
No.331, Anna Salai
Nandanam, Chennai-600 035.

4.Shree Thiruvalleeswara Devasthanam
rep by its Executive Officer
Padi, Chennai-600 050.

5. The Inspector General of Registration
Santhome High Road, Chennai.

...Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus to direct the 5th respondent to register the document produced by the members of petitioner without NOC from any agency in respect of transfer of superstructure with possessory right over the land in Survey No.218/2, Patta No. 292, Padi Village, Ambattur Taluk, with Ward No.90, Zone No.VII, Chennai Corporation.

For Petitioner : Mr.B.Manoharan

For Respondents : Mr.U.M.Ravichandrans, Spl.G.P for R1 and 5

Mr.Yashwanth, AGP(HR&CE) for R2

Mr.D.R.Arun Kumar, SC (TNHB) for R3

Mr.S.Surya for M/s. Kailasam Associates for R4



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NOC from the temple. In order to address the said grievance, the Writ Petition has been filed for the prayer that has been set out herein above.

3. The 5th respondent, Inspector General of Registration has filed a counter affidavit praying for dismissal of the Writ Petition. Unfortunately, the counter affidavit does not address the subsequent events, post the initial acquisition made by the State for the purpose of the TNHB putting up tenaments. The counter addresses only the issue relating to the lands being vested with the Government after the initial acquisition. The said counter affidavit has been filed only on 30.10.2019. Unfortunately, the stand of the 5th respondent is that the property vests with the Government, which is not even the case of the Government or the Tamil Nadu Housing Board. We regret to place it on record that such irresponsible counter affidavits are being filed by the statutory authorities without even reading the affidavit filed in support of the Writ Petition carefully and thoroughly. It is not something which is suppressed or concealed but these materials have been fully placed by way of an affidavit in support of the Writ Petition. Unfortunately, without referring to such averments made in the affidavit in support of the Writ Petition, the 5th



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respondent has chosen to file a counter affidavit dealing with only a part of the affidavit filed in support of the Writ Petition, ignoring the remaining part of the affidavit. We hereby call upon the statutory authorities and concerned law officers to act more responsibly in matters especially of filing affidavits and counter affidavits before Courts of law, as giving a wrong or incorrect picture would certainly lead to unpleasant and unwarranted consequences.

4. Heard Mr.B.Manoharan, learned counsel for the petitioner, Mr.U.M.Ravichandran, learned Special Government Pleader for R1 and 5, Mr.Yashwant, learned Additional Government Pleader (HR&CE) for R2, Mr.D.R.Arunkumar, learned Standing Counsel (TNHB) for R3 and Mr.S.Surya for M/s. Kailasam Associates for R4.

5. Though, it is the case of the petitioner society that the lands were originally acquired from the temple, subsequently the said lands were withdrawn from acquisition, such withdrawal from acquisition was illegal and does not have any force in the eye of law. However, in the connected Writ Petition, we have already held that the temple is the owner of the



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subject lands and withdrawal of the said lands from acquisition is not illegal or improper since the State is vested with absolute power and discretion in this regard. In the light of the admitted position that Sri Thiruvalleeswarar Devasthanam is the absolute owner of the subject land and the members of the petitioner society are all only lessees/sub-lessees under the said temple, the prayer sought for in the Writ Petition cannot be maintained.

6. One another factor that needs to be kept in mind is that the Tamil Nadu City Tenants Protection Act been amended by amending Act 2 of 1996. Sec.9 enabling tenants to purchase the lands taken as lease, is now no longer available to properties belonging to temples. Though the prayer sought for by the petitioner society is to direct the 5th respondent to register documents produced by members of the petitioner society without insisting on NOC from any agency, in respect of transfer of superstructure with possessory right over land on S.No.218/2, Patta No.292, Padi Village, Ambattur Taluk situated in Ward No.90, Zone No.VII, Chennai Corporation, such a blanket prayer cannot be granted for more than one reason.



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7. When the paramount title holder is admittedly the temple, without the knowledge of the said Devasthanam temple, any such registration of document, even assuming it pertains to transfer of superstructure with possessory right over land would cause serious prejudice to the Devasthanam temple especially in the light of the facts of the present case where the petitioner society disowns the very title of the temple claiming that the withdrawal of the subject lands from acquisition itself is illegal.

In view of the above discussions, we do not find any merit in the Writ Petition and consequently the same deserves to be dismissed. In fine, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(D.K.K.J) & (P.B.B.J)
20.09.2023

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Neutral Citation: Yes/No
mjs



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Government of Tamil Nadu
Housing and Urban Development Department
Secretariat, Chennai-600 009
 2. The Commissioner
Hindu Religious and Charitable Endowment Board
Nungambakkam High Road
Nungambakkam, Chennai-600 034
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D.KRISHNAKUMAR, J.,
and
P.B.BALAJI, J
(mjs)

Pre-delivery judgment in
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