



W.P.(MD) No. 6984 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23 .06.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No. 6984 of 2023

and

W.MP(MD) No.6603 of 2023

R.Kannan

Vs.

... Petitioner

1.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
B-1, Road, Ellis Nagar,
Madurai District.

2.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
B-1, Road, Ellis Nagar,
Madurai District.

3.The Inspector,
Hindu Religious and Charitable Endowment Department,
Tirumangala Circle,
Tirumangalam,
Madurai District.

... Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India,
praying for issuance of Writ of Certiorari, calling for the records relating



W.P.(MD) No. 6984 of 2023

to the impugned order passed by the 3rd respondent in his proceedings
NIL dt.7.10.2022 and quash the same as illegal.

For Petitioner : Mr.VP.Rajan

For Respondents : Mr.P.Subbaraj
Special Government Pleader

ORDER

This writ petition has been filed for issuance of writ of certiorari calling for the records relating to the impugned order passed by the third respondent in his proceedings Nil dated 07.10.2022 and quash the same.

2. It is the case of the petitioner that the lands comprised in Survey No.51/1, Eramalampatti, Thirumangalam Taluk, Madurai District, belonged to their great-grandfather PKV.Kayambu Thevar. All the revenue records stood in his name and he has been in possession and enjoyment of the same. The said PKV.Kayambu Thevar had, under a sale deed dated 27.06.1991, sold an extent of 2 acre 35 cents to one Rani and retained the remaining extent to construct a temple for family deity. The property which was retained by the family was given sub-division



W.P.(MD) No. 6984 of 2023

No.51/1B. The family had decided to construct a deity called Arulmigu Sri Perumal and Sri Krishnann in the above land. They had originally constructed only a Pedestal. The entire amount for putting up this, was given by the family and there is no contribution from the general public. On 03.06.2022, they had decided to perform the Kumbabishekam for the said temple. A false complaint was made that the temple in question is constructed by the family for public worship and that the kumbabishekam should not be performed.

3. It is the further case of the petitioner that the Revenue Authority invoked the provisions of Section 107 Cr.P.C. and directed all the parties to appear for an enquiry on 01.06.2022. The revenue records were produced before the Authority and it was made clear that the petitioner was not going to permit public worship in the said property. In fact, the petitioner had thought that the HR&CE Department had control over the temple in question and therefore had filed a writ petition seeking direction that the revenue authority should conduct the Kumbabishekam of the temple. This Court in W.P(MD) No.12941 of 2022 had, by its



W.P.(MD) No. 6984 of 2023

WEB COPY

order dated 01.09.2022, held that there was no necessity to get the permission of the authority. While the petitioner's family were preparing to conduct the function, the third respondent has pasted the impugned notice dated 07.10.2022 stating that the temple has been taken over by the HR&CE Department through the proceedings dated 31.05.1974 and further there is a Nagar temple in the land measuring 3.24 acres, which falls under the control of the HR & CE Department. Therefore, the petitioner has come forward to file the above writ petition.

4. When the matter had come up on 03.04.2023, it was informed that only a foundation existed and there is no full-fledged temple. The respondents were directed to submit the report regarding the same. Since the same was not complied with over two hearings, the first respondent was directed to be present before this Court today.

5. Today, when the matter was listed, the status report was filed along with the documents. A mere perusal of these documents, would clearly show that the property which belongs to HR & CE Department is



W.P.(MD) No. 6984 of 2023

comprised in Survey No.64/7 measuring an extent of 2.24 acres, where one Gopal Gounder was shown as the trustee. The order, dated 31.05.1974, referred to in the impugned order relates to Survey No.64/7 and not to Survey No.51/1. That apart, the sketch has also been provided, which shows that the temple is situated in Survey No.51/1A. Therefore, from the documents provided by the respondents itself, it is clear that the land in question belongs to the petitioner and the Department has no authority to pass the impugned order.

6. In view of the above, this Writ Petition is allowed and the impugned order passed by the 3rd respondent dated 07.10.2022 is set aside. No costs. consequently, connected miscellaneous petition is closed.

23.06.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
cp



WEB COPY



W.P.(MD) No. 6984 of 2023

P.T.ASHA, J.

cp

To

- 1.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
B-1, Road, Ellis Nagar,
Madurai District.
- 2.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
B-1, Road, Ellis Nagar,
Madurai District.
- 3.The Inspector,
Hindu Religious and Charitable Endowment Department,
Tirumangala Circle,
Tirumangalam,
Madurai District.

W.P.(MD) No. 6984 of 2023
and
W.MP(MD) No.6603 of 2023

Dated: 23.06.2023