



W.P. (MD) No. 11654 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.02.2023

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.P. (MD) No. 11654 of 2021

and

W.M.P. (MD) No. 9171 of 2021

M/s.GHCL Limited (Unit Sree Meenakshi Mills),
N.Kumar (Authorized Representative of the Company),
Paravai,
Samayanallur Post,
Madurai – 625 402.

... Petitioner

Vs.

1.The Thasildar,
Madurai North Taluk,
Madurai District.

2.The Executive Officer,
O/o. Arulmigu Moolanatha Swami Thirukovil,
Thenkarai, Sholavandan,
Madurai District.

3.Thakkar,
A.Suresh Kannan,
O/o. Arulmigu Vadakku Vasal Selliammal Thirukovil,
Paravai,
Madurai North,
Madurai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the constitution of India,



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to issue a Writ of CERTIORARI, calling for the records relating to the impugned proceedings passed by the 2nd respondent in his proceedings Nil dated 01.07.2021 and quash the same as illegal.

For Petitioner	: Mr. M.Ajmal Khan Senior Counsel for M/s.Ajmal Associates
For Respondents	: Mr. D.Gandhiraj, Special Government Pleader (R1) Mr. S.Manohar (R2 & R3)

ORDER

Heard Mr. M.Ajmal Khan, Learned Senior Counsel appearing for the Petitioner, Mr. D.Gandhiraj, Learned Special Government Pleader appearing for the First Respondent and Mr. S.Manohar, Learned Counsel for the Second and Third Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Second Respondent by Notice dated 01.07.2021 has called upon the Petitioner to remove the fence for 25 cents of land in Survey No. 107/3 situated at Paravai Bit II Village, Madurai, belonging to the Temple of the Second Respondent, failing which action would be taken to remove that



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encroachment, which is challenged by the Petitioner in this Writ Petition claiming ownership over the said property.

3. It is contended by the Respondents that if the Petitioner has any rival claim of the said property belonging to the Temple of the Second Respondent, it would have to state its objections by way of reply along with supporting documents in this regard, which would have to be duly considered by the concerned authority before taking further course of action in the matter.

4. At this juncture, it must be pointed out that Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (hereinafter referred to as 'the Act' for short) provides a machinery for a religious institution to evict any encroachment in a property belonging to it and a person aggrieved by such decision could avail the remedy of instituting a suit in the jurisdictional Civil Court under Section 79(2) of the Act to establish that the religious institution has no title to that property. Moreover, the Hon'ble Supreme Court of India in ***Roshna T -vs- Abdul Azeez K.T.*** [(2019) 2 SCC 329] has reiterated the law that disputed questions of fact relating to



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property rights, which are private in character and do not have any element of public law involved, require full fledged trial by recording of evidence of parties and cannot be decided in a summary manner in proceedings under Article 226 of the Constitution of India.

5. In view of the aforesaid legal position, it is not possible to entertain this Writ Petition and it is made clear that no view has been expressed by this Court on the merits of the controversy involved in the matter.

In the result, the Writ Petition is dismissed with the aforesaid clarifications. Consequently, the connected Miscellaneous Petition is closed.

No costs.

06.02.2023

Index : Yes/No

Internet : Yes/No

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Note: Issue order copy by 23.06.2023.

TO:

1.The Thasildar,
Madurai North Taluk,
Madurai District.

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2. The Executive Officer,
O/o. Arulmigu Moolanatha Swami Thirukovil,
Thenkarai, Sholavandan,
Madurai District.



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P.D.AUDIKESAVALU,J.

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