



W.P(MD)Nos.11453 & 11459 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)Nos.11453 & 11459 of 2023

and

W.M.P(MD)Nos.9941, 9948, 10244 & 10285 of 2023

A.Paul Murugan ... Petitioner in W.P(MD)No.11453 of 2023

Valliammal ... Petitioner in W.P(MD)No.11459 of 2023

Vs.

1.The Commissioner

Hindu Religious Charitable and Endowments Department,
Nungambakkam, Chennai-600 034

2.The Joint Commissioner

Hindu Religious Charitable and Endowments Department,
Thoothukudi,
Thoothukudi District.



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3.The Executive Officer

Arulmigu Meenakshi Sundareswarar Thirukovil,
Vilathikulam Taluk,
Thoothukudi District.

4.The District Collector

Thoothukudi District.

5.The Revenue Divisional Officer,

Kovilpatti Division,
Thoothukudi District.

6.The Thasildar

Vilathikulam Taluk,
Thoothukudi District.

... Respondents in both writ petitions

COMMON PRAYER : Writ Petitions are filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to forbear the respondents from unlawfully interfering with the peaceful possession and enjoyment of the properties of the petitioners in Door No.15/29A, B, Poomariamman Koil Street, in New Survey No.608/13 to an extent of



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1160.5 square feet Vilathikulam Kaspā, Thoothukudi District and in Old Door Nos.2/85A, 2/85B New door No.4/85A and 4/85B, East Car Street, New Survey No.583/1, 583/2, 583/3 in Vilathikulam Kaspā and also the property in Door No.4/29, 4/29/1-8 in New Survey Nos.583/6 and 583/7 along with 762 square feet common pathway in patta No.148 and also vacant site measuring 835 square feet in patta No.380 in New Survey No.608/12 in Poomariamman Kovil Street, Vilathikulam, Thoothukudi District, respectively.

In both Writ Petitions

For Petitioners : Mr.T.M.Hariharan,
Senior Counsel
for M/s.S.Conscious Ilango

For Respondents : Mr.Veerakathiravan,
Additional Advocate General
assisted by
Mr.M.Senthil Ayyanar - for R1 to R3
Mr.N.Muthu Vijayan - for R4 to R6
Special Government Pleader



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COMMON ORDER

Both the Writ Petitions are totally misconceived and had been filed innocuously in the nature of a Mandamus forbearing the respondents from interfering with the possession of the petitioners.

2. The possession of the petitioner complained in W.P.(MD)No.11453 of 2023 is with respect to the property at Door No.15/29A, B, Poomariamman Kovil Street, New Survey No.608/13 measuring 1160.5 square feet, Vilathikulam Kaspā, Thoothukudi District.

3. The property sought to be protected in W.P.(MD)No. 11459 of 2023 is at Old Door Nos.2/85A, 2/85B New door No.4/85A and 4/85B, East Car Street, New Survey No.583/1, 583/2, 583/3 in Vilathikulam Kaspā and also the property in Door No.4/29, 4/29/1-8 in New Survey Nos.583/6 and 583/7 along with 762 square feet common pathway in patta No.148 and also vacant site measuring 835 square feet in patta No.380 in new Survey No.608/12 in Poomariamman Kovil Street, Vilathikulam, Thoothukudi District.



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4. Both the writ petitioners appear to indulge in forum shopping, particularly, as, there is an order of the Division Bench of this Court in W.P.(MD)No.13986 of 2021 in V.Ganesan Vs. The District Collector, Thoothukudi, wherein, the Division Bench, by an order, dated 13.11.2022 with respect to the very area where the aforementioned properties are situated, had finally, after a detailed discussion, ordered as follows :

"6. In view of the above, we direct the respondents 1, 3, 5 and 8 to take necessary action for removal of encroachments in the place in question, after issuing notice and conducting survey in the presence of the petitioner and all other parties and thereafter, retrieve the lands belonging to the ninth respondent / Temple as per the directives issued by this Court in Suo Motu W.P.No.574 of 2015, dated 07.06.2021, after providing sufficient opportunity to all the parties concerned and by following due process of law. Such an exercise shall be completed within a period of three months from the date of receipt of a copy of this order. "



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5. It is the grievance of the learned counsel for the petitioners herein that the said order had been obtained behind the back of the petitioners and without impleading the petitioners. As a matter, these Writ Petitions have also been filed without impleading the said V.Ganesan. If the petitioners seek to be heard in the earlier Writ Petition, they could file an application to implead themselves in the aforementioned Writ Petition. They cannot approach a Court which is presided over by a Single Judge and seek clarification of an order passed by the Division Bench. This is extremely unethical in nature.

6. Comprehensive directions have been given in the earlier Writ Petition to the respondents therein, who are the District Collector, Thoothukudi, the Revenue Divisional Officer, Kovilpatty, Thoothukudi District, the Tahsildar, Ettaiyapuram, Thoothukudi District, and the Joint Commissioner, Hindu Religious Charitable and Endowments Department, Thoothukudi District, stipulating the manner, in which, they should proceed further to put the order in effect. This Court can never pass any directions once again reinterpreting the said order or granting an injunction in the teeth of the order of the Division Bench.



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7. Both the Writ Petitions are dismissed.

8. Costs of Rs.50,000/- (Rupees Fifty Thousand only) each is imposed on the respective petitioners. The said costs are to be paid to the District Legal Service Authority, Thoothukudi and the Chairperson, District Legal Service Authority, Thoothukudi, may forward the said amounts of Rs.50,000/- (Rupees Fifty Thousand only) each, to the Government General Hospital, Thoothukudi, so that, a few poor persons may get the benefit of treatment for their medical ailments. The petitioners with such abundant holding of properties as stated earlier, can never complain of parting with a small amount of costs for the treatment of poor persons, whereby those families would benefit because of such treatment. The said costs should be paid on or before **31.07.2023**. A report to be forwarded by the Chairperson, District Legal Service Authority, Thoothukudi, to the District Collector, Thoothukudi, if costs are not paid as aforementioned within the stipulated date, to initiate appropriate proceedings under the Revenue Recovery Act, against the petitioners herein for recovery of the cost amount.



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Consequently, connected miscellaneous petitions in W.M.P(MD) Nos.9941 and 9948 of 2023 are closed.

9. In view of these particular facts, the impleading petitions in **W.M.P(MD)Nos.10244 and 10285 of 2023** also stand dismissed, since the petitioner therein was not called while passing the aforementioned orders.

12.06.2023

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

RM



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C.V.KARTHIKEYAN, J.

RM

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