



W.P.(MD)Nos.14929 of 2020, 15513 and 15725 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.12.2023

C O R A M

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.14929 of 2020

&

W.M.P.(MD)Nos.12560 and 12561 of 2020

and

W.P.(MD)No.15513 of 2021

&

W.M.P.(MD)Nos.12440 and 12444 of 2021

and

W.P.(MD)No.15725 of 2021

&

W.M.P.(MD)Nos.12669 and 12671 of 2021

W.P.(MD)No.14929 of 2020:-

Dinakaran

... Petitioner

-VS-

- 1.The Tahsildar,
Madurai East Taluk,
Madurai District.
- 2.The Sub Registrar,
Thamaraipatti @ Chittampatti,
Madurai District.
- 3.Arulmighu Kallazhagar Thirukkivil,
Rep. by its Executive Officer/Joint Commissioner,
Alagarkovil, Melur Taluk,
Madurai District.



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4.The Additional Chief Secretary and
Commissioner of Land Administration,
Chepauk, Chennai.

... Respondents

[R4 is *suo motu* impleaded vide order dated 04.03.2021]

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the second respondent in No.73/2019, dated 26.08.2019, quash the same and direct the second respondent to register the sale deeds presented by the petitioner in respect of Survey No.65/1B, measuring 3.18.5 Hectares of Poikaraipatti Village, Madurai East Taluk, Madurai District.

For Petitioner : Mr.S.Ragavachari
Senior Counsel
for Ms.K.M.Priscilla Jancy

For R1, R2 and R4 : Mr.A.K.Manikkam
Special Government Pleader

For R3 : Mr.S.Manohar

W.P.(MD)No.15513 of 2021:-

The Deputy Commissioner/Executive Officer,
Arulmigu Kallalagar Thirukoil,
Alagarkovil, Melur Taluk,
Madurai District.

... Petitioner

-VS-

1.The Commissioner,
The Office of the Commissioner of Land Administration,
Chepauk, Chennai – 600 005.

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2.The District Revenue Officer,
Madurai District,
Madurai.

3.The Revenue Divisional Officer,
Melur, Madurai District.

4.The Tahsildar,
Melur Taluk,
Madurai District.

5.The Sub Registrar,
Thamaraipatti Sub Registrar Office,
Melur Main Road,
Madurai.

6.Alamelu Mangai,
D/o.Periaswamy Ambalam,
Trustee,
"Kallanthiri Ki.Mu.Kalluvedi Karuppanan Ambalam
Mandagapadi Thaneer Pandal Dharmam Trust",
Kallanthiri, Alagarkovil Via,
Madurai North Taluk,
Madurai District.

7.M.Dinakaran

8.R.Mathumitha

9.J.S.Amarnath

10.S.Nirmala

11.R.Devarajan

12.F.Anulamary

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13.S.John Peter

14.J.Punitha

15.M.Arockiyam

16.D.Rohini

17.S.Vanitha

18.K.Sundararaman

19.P.Sundari

20.G.M.Palsanthiyagu

21.S.A.Jeromeraj

22.K.Thirumurugan

23.T.J.Gnaneeswari

24.R.Savitha

25.M/s. L & T Housing Finance Ltd.,
L & T House,
N M Marg, Ballard Estate,
Mumbai – 400 001.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the impugned sale deed on the file of the 5th respondent, dated 13.04.2016, under Doc.No.904 of 2016 executed by the 7th respondent in favour of the 8th respondent, impugned sale deed on the file of the 5th respondent dated 13.04.2016 under Doc.No.905 of 2016



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executed by the 7th respondent in favour of the 8th respondent, impugned sale deed on the file of the 5th respondent dated 13.04.2016 under Doc.No.906 of 2016 executed by the 7th respondent in favour of the 9th respondent, impugned sale deed on the file of the 5th respondent dated 13.04.2016 under Doc.No. 907 of 2016 executed by the 7th respondent in favour of the 10th respondent, impugned sale deed on the file of the 5th respondent dated 13.04.2016 under Doc.No.908 of 2016 executed by the 7th respondent in favour of the 11th respondent, impugned sale deed on the file of the 5th respondent dated 13.04.2016 under Doc.No.909 of 2016 executed by the 7th respondent in favour of the 12th respondent, impugned sale deed on the file of the 5th respondent dated 13.04.2016 under Doc.No.910 of 2016 executed by the 7th respondent in favour of the respondents 13,14 and 15, impugned sale deed on the file of the 5th respondent dated 12.05.2016 under Doc.No.912 of 2016 executed by the 7th respondent in favour of the 16th respondent, impugned sale deed on the file of the 5th respondent dated 12.05.2016 under Doc.No. 913 of 2016 executed by the 7th respondent in favour of the 17th respondent, impugned sale deed on the file of the 5th respondent dated 12.05.2016 under Doc.No.914 of 2016 executed by the 7th respondent in favour of the 18th respondent, impugned sale deed on the file of the 5th respondent dated 12.05.2016 under Doc.No.915 of 2016 executed by the 7th respondent in favour of the 19th respondent, impugned sale deed on the file of the 5th respondent dated 12.05.2016 under Doc.No.916 of 2016 executed by the 7th respondent in favour of the 20th respondent, impugned sale deed on the file of the 5th respondent dated 19.05.2016 under Doc.No.919 of 2016 executed by



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the 7th respondent in favour of the 20th respondent, impugned sale deed on the file of the 5th respondent dated 19.05.2016 under Doc.No.920 of 2016 executed by the 7th respondent in favour of the 21st respondent, impugned sale deed on the file of the 5th respondent dated 15.06.2016 under Doc.No.954 of 2016 executed by the 7th respondent in favour of the 22nd respondent, impugned sale deed on the file of the 5th respondent dated 25.06.2016 under Doc.No.1221 of 2016 executed by the 7th respondent in favour of the 23rd respondent, impugned gift settlement deed on the file of the 5th respondent dated 09.08.2016 under Doc.No.1328 of 2016 executed by the 8th respondent in favour of the 24th respondent and impugned memorandum of deposit of title deeds on the file of the 5th respondent dated 07.10.2016 under Doc.No. 1626 of 2016 executed by the 18th respondent in favour of the 25th respondent, pertaining to encumbrance of the endowment property of the petitioner Temple under S.No.65/1B, Poyyakaraipatti, Madurai North Taluk, Madurai and to quash the said impugned documents.

For Petitioner	:	Mr.S.Manohar
For R1 to R5	:	Mr.A.K.Manikkam Special Government Pleader
For R6	:	Mr.S.Ramsundarvijayraj for M/s.Veera Associates
For R7	:	Mr.R.Alagianambi
For R8 to R24	:	No Appearance
For R25	:	Mr.A.Thiyagarajan



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W.P.(MD)No.15725 of 2021:-

The Deputy Commissioner/Executive Officer,
Arulmigu Kallalagar Thirukoil,
Alagarkovil, Melur Taluk,
Madurai District.

... Petitioner

-VS-

- 1.The Commissioner,
The Office of the Commissioner of Land Administration,
Chepauk, Chennai – 600 005.
- 2.The District Revenue Officer,
Madurai District,
Madurai.
- 3.The Revenue Divisional Officer,
Melur, Madurai District.
- 4.The Tahsildar,
Melur Taluk,
Madurai District.
- 5.The Sub Registrar,
Thamaraipatti Sub Registrar Office,
Melur Main Road,
Madurai.
- 6.Alamelu Mangai,
D/o.Periaswamy Ambalam,
Trustee,
"Kallanthiri Ki.Mu.Kalluvedi Karuppanan Ambalam
Mandagapadi Thaneer Pandal Dharmam Trust",
Kallanthiri, Alagarkovil Via,
Madurai North Taluk,
Madurai District.



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7.M.Dinakaran

... Respondents

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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the impugned sale deed dated 01.10.2013, executed by the 6th respondent in favour of the 7th respondent, on the file of the 5th respondent, under Document No.2277 of 2013 pertaining to encumbrance of the endowment property of the petitioner Temple under S.No.65/1B, Poyyakaraipatti, Madurai North Taluk, Madurai and to call for order passed by the 1st respondent under Proceeding No.D.Dis K4/RP43/2002 (7854/02) dated 17.04.2014, pertaining to retaining the Patta in the name of 6th respondent relating to the endowment property under S.No. 65/1B, Poyyakaraipatti, Madurai North Taluk, Madurai and to quash the said sale deed and to quash the 2nd impugned order as far as retaining the Patta to the property under S.No.65/1B, Poyyakaraipatti, Madurai North Taluk, Madurai, in the name of the 6th respondent and direct the respondents 1 to 4 to grant Patta to the property under S.No.65/1B, Poyyakaraipatti, Madurai North Taluk, Madurai, in favour of the petitioner Temple.

For Petitioner	:	Mr.S.Manohar
For R1 to R5	:	Mr.A.K.Manikkam Special Government Pleader
For R6	:	Mr.S.Ramsundarvijayraj for M/s.Veera Associates
For R7	:	Mr.R.Alagianambi



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COMMON ORDER

WEB COPY When the matter came up for hearing on 13.10.2023, this Court passed the following order:-

"The issue involved in all these writ petitions are inter connected and hence, all these writ petitions are taken up together and heard.

2.The learned counsel appearing on behalf of the petitioner in W.P.(MD)No.14929 of 2020 submitted that the petitioner had purchased the subject property in Survey No.65/1B measuring to an extent of 3.18.5 hectares at Poikaraipatti Village, Madurai East Taluk, Madurai, through a registered sale deed dated 01.10.2013 registered as document No.2277/2013. This sale deed was executed in favour of the petitioner by Tmt.P.Alamelu Mangai, in her capacity as a Managing Director of a trust.

3.The learned counsel for the petitioner further submitted that the subject property originally belonged to one Mr.Paramasamy Ambalam and he created a private trust through a document dated 09.07.1940. Subsequently, he executed a registered gift deed on 24.10.1977 settling the property in favour of his daughter Tmt.Alamelu Mangai.

4.It was further submitted that a mistake was committed during UDR survey and the authorities had included Survey No. 65/1B and issued patta in favour of the third respondent temple. An



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objection was made by Tmt.Alamelu Mangai and based on that objection, the mistake was rectified and a separate patta was issued in the name of Tmt.Alamelu Mangai. The temple had filed revision petition before the Commissioner of Land Administration and in that proceedings, the temple was contesting the case with respect to many survey numbers and the temple took a very specific stand that it is not claiming any right in respect of the punja land comprising in Survey No.65/1B. Based on the grounds that were raised by the temple, an order came to be passed by the Commissioner of Land Administration through proceedings dated 17.04.2014. Even in this proceedings, the Commissioner of Land Administration specifically took note of the stand taken by the temple and dealt with the revision with respect to all the survey numbers except Survey No.65/1B. Accordingly, through final orders, patta was restored in the name of the temple with respect to all other survey numbers and the temple was directed to seek for consequential remedy before the District Revenue Officer, Madurai.

5.The learned counsel for the petitioner by relying upon all the relevant documents submitted that the temple does not have any right over the land in Survey No.65/1B and the petitioner is the absolute owner of the subject property by virtue of the registered sale deed dated 01.10.2013. While so, the second respondent through proceedings dated 26.08.2019 informed the petitioner that no documents pertaining to the subject property will be registered, since



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it belongs to the temple and there is a bar under Section 22-A of the Registration Act, therefore, the parties were directed to workout their remedy before the competent civil Court. This proceedings was made a subject matter of challenge in W.P.(MD)No.14929 of 2020 and the petitioner has sought for consequential direction to the second respondent to register the documents presented with respect to the subject property in Survey No.65/1B.

6.The learned counsel appearing on behalf of the temple/petitioner in W.P.(MD)No.15513 of 2021 and 15725 of 2021 submitted that the subject property belongs to the temple, the same had been dealt with by private parties and all these transactions have been put to challenge in these two writ petitions.

7.The learned counsel for the temple submitted that an application has been filed before the Commissioner of Land Administration seeking modification of the order passed in R.P.No.43 of 2002 on 17.04.2014. The affidavit in modification petition filed before the Commissioner of Land Administration was also specifically relied upon by the learned counsel for the temple. On going through the same, it is seen that a specific stand has been taken by the temple as if at no point of time, no objection was given by the temple for the transfer of patta in respect of the property in Survey No.65/1B. Therefore, the temple wants the earlier order passed by the Commissioner of Land Administration to be modified and to include the property in Survey No.65/1B also in the order that



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was passed on 17.04.2014.

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8.For the present, this Court does not find any legal restraint in the sale deed that was executed in favour of the petitioner in W.P. (MD)No.14929 of 2020, since the temple had taken a specific stand before the Commissioner of Land Administration that it is not agitating the case insofar as Survey No.65/1B is concerned. Hence, the consequential sale deeds that have been executed by the petitioner in W.P.(MD)No.14929 of 2020 also cannot be challenged, since the source of right and title is from the petitioner in W.P. (MD)No.14929 of 2020. Therefore, the learned counsel for the temple must establish before this Court as to the status of the application that has been filed before the Commissioner of Land Administration.

9.During the course of hearing, a mention was made to the order passed by the Hon'ble Mr.Justice V.Parthiban (retired) pursuant to which the modification petition was filed before the Commissioner of Land Administration. This order shall also be placed before this Court.

10.The learned counsel for the petitioner also placed reliance upon the order made by the Division Bench of this Court in suo motu writ petition in W.P.(MD)No.24178 of 2018 and in Review Application (Writ) Nos.169 and 170 of 2021. These orders shall also be placed before this Court.



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application, including the petitioner herein and pass final orders, after considering the claim and rival claims and also after perusing the relevant materials placed on record. The petitioner herein is at liberty to raise the issue of maintainability and also limitation and any other contentions before the Additional Chief Secretary and Commissioner of Land Administration in respect of the proceedings for modification and on hearing the parties, he shall pass final orders within a period of four weeks from the date of receipt of a copy of this order.”

3.The learned Senior Counsel appearing on behalf of the petitioner in W.P(MD)No.14929 of 2020 submitted that till date no notice has been received from the Commissioner of Land Administration and no orders have been passed. Therefore it was contended that the petitioner is made to wait endlessly to deal with the property, over which, the petitioner has right and title.

4.This Court, while passing the interim order, directed the Commissioner of Land Administration to pass final orders on the modification petition filed by the Temple, within a period of four weeks. This order was passed to enable this Court to deal with the stand taken by the Temple and to pass final orders in the pending writ petitions. Unfortunately, there has been absolutely no progress in the modification application, that is pending before the



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Commissioner of Land Administration. The fact that the Commissioner of Land Administration has not passed any orders till date, amounts to non-compliance of order passed by this Court on 04.03.2021.

5. When the above was brought to the notice of the learned Special Government Pleader, the learned Special Government Pleader sought for some time to take instructions from the Commissioner of Land Administration, Chennai.

6. The fulcrum of the case is based on the specific stand that is taken by the Temple before the Commissioner of Land Administration, which was taken note of by this Court, while passing the earlier order on 13.10.2023. Therefore, unless the Commissioner of Land Administration passes any further order on the modification application, this Court has to merely go by the earlier stand taken by the Temple before the Commissioner of Land Administration. Hence, the interim order that was passed by this Court on 04.03.2021 has a lot of significance.

7. Post the matter under the same caption on 04.12.2023 at 02.15 p.m. In the meantime, the Commissioner of Land Administration is expected to comply with the order passed on 04.03.2021 and report before this Court"



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3. When the matter was taken up for hearing today, the learned Special Government Pleader produced the proceedings of the Commissioner of Land Administration, dated 30.11.2023. It is seen that the modification petition filed by the Executive Officer of the Temple has been rejected.

4. The learned Senior Counsel appearing on behalf of the petitioner in W.P.(MD)No.14929 of 2020 submitted that the modification petition that was filed by the Temple has now been rejected by the Commissioner of Land Administration and therefore, there is no reason to prevent the petitioner from dealing with the property by virtue of the impugned proceedings of the second respondent, dated 26.08.2019. The learned Senior Counsel further contended that the legality or otherwise of the sale deeds that have been put to challenge in W.P.(MD)Nos.15513 and 15725 of 2021 cannot be gone into in these Writ Petitions and at the best, the Temple can only agitate their rights before the competent Civil Court, if law so permits.

5. Per contra, the learned counsel appearing on behalf of the Temple submitted that the Patta proceedings cannot take away the right and title of



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the Temple in the subject property. To substantiate the same, the learned

counsel relied upon the following judgments:-

(i) Sri Ganapathi Dev Temple Trust vs. Balakrishna Bhat reported in **2019 (9) SCC 495**

(ii) Prahlad Pradhan and others vs. Sonu Kumhar and others reported in **2019 (10) SCC 259**

(iii) Bhimabai Mahadeo Kambekar vs. Arthur Import and Export Company reported in **2019 (3) SCC 191**

(iv) Vishwas Footwear Company Ltd. vs. The District Collector, Kancheepuram reported in **2011 (5) CTC 94**

(v) Kesavan and others vs. Muthu reported in **2012 (6) CTC 303**

(vi) State of Madhya Pradesh and others vs. Pujari Utthan Avam Kalyan Samid and another reported in **AIR 2021 Supreme Court 4245.**

6. The learned counsel for the Temple further submitted that this Court has to exercise its *parens patriae* jurisdiction and safeguard the interest of the Temple and secure the properties, which have been illegally dealt with by the private parties. To substantiate the same, the learned counsel relied upon the



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following judgments:-

WEB COPY (i) M.J.Thulasiraman and another vs. Commissioner, Hindu Religious and Charitable Endowment Administration and another reported 2019 (8) SCC 689

(ii) Deoki Nandan vs. Murlidhar and others reported in AIR 1957 SC 133

(iii) Bishwanath and another vs. Sri Thakur Radha Ballabhji and others reported in AIR 1967 Supreme Court 1044

(iv) Gopalakrishnan vs. Cochin Devaswom Board reported in 2007 (4) KLT 965 (SC)

(v) Arulmigu Meenakshi Sundareshwarar Temple, Madurai, Through its Joint Commissioner/Executive Officer vs. The Inspector General of Registration, Chennai and others [W.P.(MD)No.10641 of 2020, dated 11.10.2022]

7. The learned counsel for the Temple also submitted that where there is a specific endowment made to the Temple, there is no question of dealing with the property and the same is illegal and non est in the eye of law and the same is not binding on the Temple. To substantiate the same, the learned



W.P.(MD)Nos.14929 of 2020, 15513 and 15725 of 2021

counsel relied upon the following judgments:-

WEB COPY (i) V.Prakash alias G.N.V.Prakash vs. P.S.Govindaswamy Naidu

and Sons Charities reported in 2022 (9) SCC 36

(ii) State of Bihar vs. Tata Iron and Steel Company Limited
reported in 2019 (7) SCC 99

(3) The Idol of Sri Renganathaswamy, Srirengam, Rep. by its Joint Commissioner/Executive Officer vs. J.Sriram and others [A.S.(MD)No. 140 of 2015, dated 13.04.2023, (2023/MHC/1881)]

8. This Court has carefully considered the submissions made on either side and the materials available on record.

9. In the instant case, the main ground that was urged by the Temple is that there is a specific endowment and the property has been endowed for the performance of a specific service/charity and hence, the property belonging to the Temple cannot be dealt with and the interest of the Temple has to be safeguarded.



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10. The Temple is tracing its right to the property on the ground that it was a specific endowment that was made in favour of the Temple. There is no dispute that the Idol of a Temple is a juristic person, capable of holding a property and that the Court must safeguard the right and interest of the Idol and in a way, has to exercise its *parens patriae* jurisdiction.

11. As observed in the earlier orders passed by this Court, the Temple had taken a very specific stand before the Commissioner of Land Administration that it is not agitating the case insofar as Survey No.65/1B is concerned. This stand taken by the Temple was taken note of by the Commissioner of Land Administration and accordingly, through the final orders that were passed on 17.04.2014, the Patta was restored in the name of the Temple with respect to all the other survey numbers except Survey No. 65/1B. There was some doubt as to whether the Temple had actually given up their right with respect to the property in Survey No.65/1B. Therefore, a modification petition was filed before the Commissioner of Land Administration and this Court passed an interim order on 04.03.2021, directing the Commissioner of Land Administration to deal with the



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modification petition and to pass final orders. Accordingly, final orders have been passed by the Commissioner of Land Administration on 30.11.2023, rejecting the modification petition.

12. The subject matter of challenge in W.P.(MD)No.14929 of 2020 pertains to the proceedings of the second respondent informing the petitioner that no documents pertaining to the subject property in Survey No.65/1B will be registered. The specific case of the petitioner in W.P.(MD)No.14929 of 2020 is that the Temple itself had taken a stand before the Commissioner of Land Administration that it is not claiming any right insofar as Survey No. 65/1B is concerned.

13. The legality or otherwise of the impugned proceedings of the second respondent can be tested qua the right claimed by the petitioner over the subject property in Survey No.65/1B only in the light of the stand taken by the Temple before the Commissioner of Land Administration. Whether any such stand was taken at the relevant point of time or whether there is something more than what meets the eye, is not an exercise that can be



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carried out in a Writ Petition. These are matters, which requires evidence and appreciation of evidence. Therefore, even if this Court is to exercise its *parens patriae* jurisdiction, there must be some material before this Court to come to a conclusion that the land belonging to the Temple is attempted to be knocked away by the private parties. This Court cannot render its findings merely on assumptions and surmises, even insofar as dealing with the case relating to properties belonging to a Temple. In other words, the litigation involving a Temple must also be dealt with only in accordance with law and the Court will go that extra mile by exercising its *parens patriae* jurisdiction based on the facts of the case placed before the Court. This is in view of the fact that the Court will not allow the property to be knocked away due to the lackadaisical attitude of the authorities and will try to safeguard the interest of the Temple.

14. As stated above, the stand that has been taken by the Temple in the earlier proceedings, does not enable this Court to engage in any further enquiry in this case. This is more so since, a modification petition was laid before the Commissioner of Land Administration and once again, the



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Commissioner of Land Administration through proceedings, dated 30.11.2023, has rejected the modification petition and has reiterated the earlier finding rendered through proceedings, dated 17.04.2014.

15. In the light of the above discussion, there is no reason to restrain the petitioner in W.P.(MD)No.14929 of 2020 from dealing with the property. If at all, the Temple wants to establish its rights over the property, it has to necessarily go before the competent Civil Court and work out the remedy. The consequential sale deeds that have been put to challenge in the other two Writ Petitions filed by the Temple cannot be tested in these Writ Petitions, since the source of right and title in those sale deeds is only from the petitioner in W.P.(MD)No.14929 of 2020. Hence, the Temple by establishing its right and title over the property can also consequentially, put the sale deeds to challenge before the competent Civil Court.

16. In fine, the proceedings of the second respondent, dated 26.08.2019, preventing the petitioner in W.P.(MD)No.14929 of 2020 from executing documents pertaining to the subject property in Survey No.65/1B,



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is hereby set aside. Accordingly, W.P.(MD)No.14929 of 2020 is allowed.

Consequently, W.P.(MD)Nos.15513 and 15725 of 2021 are dismissed.

Liberty is granted to the petitioner Temple to work out its remedy before the competent Civil Court in accordance with law. No costs. Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes/No
Index : Yes/No
SMN2

06.12.2023

To

- 1.The Tahsildar,
Madurai East Taluk,
Madurai District.
- 2.The Sub Registrar,
Thamaraipatti @ Chittampatti,
Madurai District.
- 3.The Executive Officer/Joint Commissioner,
Arulmighu Kallazhagar Thirukkivil,
Alagarkovil, Melur Taluk,
Madurai District.



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4.The Additional Chief Secretary and
Commissioner of Land Administration,
Chepauk, Chennai.

5.The Commissioner,
The Office of the Commissioner of Land Administration,
Chepauk, Chennai – 600 005.

6.The District Revenue Officer,
Madurai District,
Madurai.

7.The Revenue Divisional Officer,
Melur, Madurai District.

8.The Tahsildar,
Melur Taluk,
Madurai District.

9.The Sub Registrar,
Thamaraipatti Sub Registrar Office,
Melur Main Road,
Madurai.



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N.ANAND VENKATESH, J.

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**Common order in
W.P.(MD)Nos.14929 of 2020, 15513 and 15725 of 2021**

06.12.2023