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W.P.(MD)NO.16829 OF 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.08.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.16829 of 2015 AND
M.P.(MD)Nos.2 & 3 of 2015

1. Anirudhen Thambi
 2. V.Vimala Devi Thankachy
 3. A.Goapakumar
 4. Raman Thambi
- ... Petitioners

Vs.

1. The District Collector,
Nagercoil,
Kanyakumari District.
2. The Revenue Divisional Officer,
Padmanabhapuram,
Thuckalay Post,
Kanyakumari District.
3. The Assistant Commissioner(Admn.),
HR&CE Department,
Nagercoil-2,
Kanyakumari District.
4. The Fit Person,
Perumal Madam of Thottiyode
and Pillaiyar Thirukoil and
Executive Officer of
Anjanaezhuthiya Kandan Sastha Kovil,
Office at
Kannivinayaga Thirukoil,
Vadiveeswaram, Nagercoil,
Kanyakumari District.



5. Samraj
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... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the impugned order bearing Se.Mu.Na.Ka.1551/2015/Aa3 dated 25.06.2015 on the file of the Assistant Commissioner, HR&CE(Admn.) Department, Nagercoil and quash the same.

For Petitioner : Mr.K.N.Thambi
For R-1 to R-3 : Mr.R.Ragavendran,
Government Advocate.

For R-5 : No appearance.

For R-4 : Mr.K.Sathiya Singh,
Standing Counsel.

* * *

ORDER

Heard the learned counsel on either side.

2. One Samraj, the fifth respondent herein filed W.P.(MD)No.9773 of 2012 for directing the Revenue Divisional Officer, Padmanabhapuram to cancel the pattas in respect of R.S.Nos.657/7, 657/8, 650/5 and 825/4 of Villukkuri



Revenue Village, Kalkulam Taluk which are standing in certain individual names. The writ petition was disposed of on 02.01.2013 in the following terms:-

“ 7. The fact remains that the petitioner has come forward with the limited prayer to the effect of direction to the second respondent to consider the representation dated 20.06.2012. In view of the limited prayer made by the petitioner, this Court without going into the merits of the representation dated 29.06.2012, is constrained to direct the second respondent herein to consider the representation of the petitioner, dated 29.06.2012 by affording opportunity to the petitioner, the respondents 5 to 9 for submitting their objections and permitting them to produce the documents relied on by them and also to other relevant parties including the HR&CE Department and pass orders on merits and in accordance with law.



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The petitioner is directed to furnish a fresh copy of the representation dated 29.06.2012 within a period of ten days from the date of receipt of a copy of this order and on receipt of the same, within a period of 12 weeks thereafter, the second respondent shall complete the above said exercise. “

3. Pursuant thereto, the Revenue Divisional Officer, Padmanabhapuram took up the matter for enquiry. He came to the conclusion that the lands comprised in S.Nos.650/5, 657/7, 8 and 825/4 belonged to the individual persons. However, in the same breath, the Revenue Divisional Officer, Padmanabhapuram advised the HR&CE Department to take steps for registering them for bringing the said lands under the control of HR&CE Department,

4. Taking cue therefrom the Assistant Commissioner, HR&CE Department, Nagercoil, filed an appeal petition dated 26.04.2013 before the District Revenue Officer, Kanyakumari.



Samraj also filed an appeal petition before the District Revenue Officer, Kanyakumari. Both were taken up together and disposed of only on 02.12.2015. The District Revenue Officer, Padmanabhapuram concluded that the properties are in possession and enjoyment of the counter petitioners for over 50 years and that they do not belong to HR&CE Department. Liberty was given to the appellants to move the jurisdictional civil Court for establishing their claim. Challenging the order dated 02.12.2015, Samraj filed W.P. (MD)No.23607 of 2015 and it is said to be pending. In the meanwhile, the Assistant Commissioner, HR&CE, Nagercoil passed an order dated 25.06.2015 appointing an Executive Officer / fit person for Anjanaezhuthiya Kandan Sastha temple. Challenging the said order appointing fit person, the present writ petition came to be filed.

5. After hearing the learned counsel on either side, I am more than satisfied that the petitioners do not have any *locus standi* to challenge the impugned order dated 25.06.2015 appointing fit person. It is not the case of the petitioners that they are the trustees and that the impugned



order has to be set aside on the ground of violation of principles of natural justice. The petitioners do not claim any interest in the temple. The order impugned in this writ petition is sustained. However, the learned counsel appearing for the writ petitioners submitted that the real apprehension is that the person appointed as the fit person vide order dated 25.06.2015, is attempting to take over the lands comprised in survey Nos.657/7 and 657/8 Thottiyodu belonging to the petitioners. The apprehension expressed by the petitioners is well founded. My attention is drawn to the order dated 24.11.2015 passed by the District Revenue Officer, Kanyakumari against the Assistant Commissioner, HR&CE Department, Vadaveeswaram, Nagercoil. The District Revenue Officer states that since the matter is pending with the file of the District Revenue Officer, the officials of the HR&CE Department had not entered into the lands in question. They had also been directed to remove the name boards installed by them.

6. At this stage, the learned counsel appearing for the temple points out that they had already filed O.S.No.75 of



2016 on the file of the Sub Court, Padmanabhapuram, challenging the order dated 02.12.2015 filed by the District Revenue Officer, Kanyakumari.

7. Unless the temple is able to establish its claim in the said civil suit, it would not be open to the fit person appointed under the impugned order to interfere with the property rights of the writ petitioners herein. Though the writ petition has been filed only in the nature of the Writ of Certiorari, the writ Courts have the power to mould the relief. It is for this reason, even while sustaining the impugned order, I restrain the respondents 3 and 4 from interfering with the property rights of the petitioners. This writ petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

11.08.2023

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

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To:

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Nagercoil,
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2. The Revenue Divisional Officer,
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9

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G.R.SWAMINATHAN,J.

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