



W.P(MD)No.5136 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 09.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.5136 of 2015

Nrn. Pandian

... Petitioner

Vs

- 1.The District Collector,
Trichy District.
- 2.The Revenue Divisional Officer,
Trichy District.
- 3.The Tahsildar,
Marungapuri,
Trichy District.
- 4.The Superintendent of Police,
Trichy District.
- 5.The Inspector of Police,
Thuvarankuruchi Police Station,
Trichy District.
- 6.The Arulmigu Vellai Vinayagar Thirukoil,
Rep. by its Executive Officer,
Thuvarankurichi,
Trichy District.



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7.Mohaideen Andavar Pallivasal,
Management Committee,
Rep. by its President,
Thuvarankurichi,
Trichy District.

8.Mr.V.M.S. Samsudeen
9.Mr.V.M.S. Mohamed Ibrahim
10.Mr.M. Jamal Mohamed
11.Mr. Sarfudeen

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 to 6 to restore the 40 cents of land comprised in Natham Survey Nos. 710/1, 710/2, 710/10 adjacent to Arulmigu Vellai Vinayagar Temple, Thuvarankurichi, in favour of the temple as per the settlement arrived at between the Hindu and the Muslim Community people of Thuvarankurichi on 21.12.1970.

For Petitioner	: Mr.T.Antony Arul Raj
For R1 to R5	: Mr.G.V.Vairam Santhosh Additional Government Pleader
For R6, R8 & R9	: No appearance
For R7	: Ms.H.Jasima Yasmin for M/s. Ajmal Associates
For R10 & R11	: Mr.R.Murali

ORDER

The petitioner, a devotee of Arulmigu Vellai Vinayagar Temple with a grievance that a settlement, which was effected in the



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year 1970 has not been implemented, has filed this writ petition for a Mandamus directing the respondents 1 to 6 to restore 40 cents of land comprised in Natham Survey Nos.710/1, 710/2 and 710/10 adjacent to Arulmigu Vellai Vinayagar Temple, Thuvarankurichi, in favour of the Temple, as per the settlement arrived at between the Hindu and Muslim Community people of Thuvarankurichi on 21.12.1970.

2. The learned counsel appearing for the petitioner, by referring to the settlement arrived at between Mohaideen Andavar Pallivasal, Thuvarankurichi and Arulmigu Vellai Vinayakar Thirukovil, Thuvarankurichi submits that there was a dispute with regard to the land in Natham Survey Nos.710/1, 710/2 and 710/10 to an extent of 40 cents in the year 1970. Therefore, peace committee meeting was conducted and a settlement was arrived at between Mohaideen Andavar Pallivasal and Arulmigu Vellai Vinayakar Thirukovil, Thuvarankurichi, wherein, the petitioner is also a party. As per the settlement, the Pallivasal has agreed to hand over a



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portion of the land to Arulmigu Vellai Vinayagar Temple, however, it has not been implemented. The learned counsel has also drawn the attention of this Court that the Management Committee of Mohaideen Andavar Pallivasal has filed a writ petition in W.P.No. 16077 of 1999 to implement the settlement arrived at between the Muslim and Hindu Community people of Thuvarankurichi, on 21.12.1970. This Court, by order dated 22.04.2008, allowed that writ petition with a direction to the respondents 1 to 5 therein, to implement the agreement dated 21.12.1970.

3.The learned counsel appearing for Mohaideen Andavar Pallivasal/the seventh respondent herein submits that the land has already been handed over by the Pallivasal to the Temple in the year 1970 itself and it has been recorded by the Tahsildar of Manapparai. She further submits that the Temple has not raised any issue that the land has not been handed over to the temple, however, the petitioner, who is an individual, is raising all these issues as Public Interest Litigation.



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4. The learned counsel appearing for the respondent 10 submits that in the earlier agreement, there is no reference about the survey numbers and to the extent of the land. He further submits that the land has already been handed over to the Temple and therefore, the plea raised by the petitioner is unnecessary.

5. As per the direction of this Court dated 12.06.2023, the learned Additional Government Pleader has produced a file relating to the UDR survey.

6. In order to sort out the issue involved in this writ petition, this Court appoints Mr.I.Pinaygash, Enrol.No.568/2009, having office at Chamber No.163, High Court Campus, Madurai (Cell No.98940 73806) as an Advocate Commissioner to conduct a spot inspection along with the revenue officials to identify the property and to file a report before this Court. Accordingly, the Advocate Commissioner has inspected the area and filed a report as under:-



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“The Writ petitioner seeking to restore 40 cents of land in favour of the Arulmigu Vellai Vinayagar Temple. As per Revenue Records previously the land in dispute was shown as in Survey No.274/1 and classified as Natham in an extent of 5 Acre 10 cents. Subsequently as per A Register the same was reclassified as Sarkar Manai (Vacant Site) as Survey Nos.710/1, 710/2 and 710/10, which is adjacent to Arulmigu Vellai Vinayagar Temple, Thuvrankurichi, Trichy as follows:-

S.No	Survey No.	Extent	Description
1.	710/1	7 ½ cents	➤ Out of which 3 ½ cents was occupied and constructed shop by Mr.Jainudeen S/o Thameem Ansari ➤ Remaining 4 cents remain as Government Natham Vacant site
2.	710/2	13 ½ cents	➤ 1 ½ cent was occupied as Thatched Shed/godown ➤ Remaining 11 ½ cents remain as Government Natham vacant site
3.	710/10	18 ½ cents	➤ Fully occupied by Prosopis Juliflora (Karuvelam Trees)
710/1, 710/2 and 710/10			Total 39 ½ cents
In addition to that some of the land in Survey Numbers are most relevant to the instance case as follows			



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1.	710/7	66 feet length 3 feet width	As per compromise settlement dated 08.01.1971 arrived for the common lane which is situated middle of the temple and shops constructed by Muslims were declared as if the common lane jointly belongs to Arulmigu Vellai Vinayagar Temple and Mohamed Kani Ravuthar Clan members
2.	710/9	6 cents	Belongs to Arulmigu Vellai Vinayagar Temple
3.	272	4 acre 78 cents	Belongs to Arulmigu Vellai Vinayagar Temple

5.FINDINGS & RECOMMENDATIONS FOR KIND CONSIDERATION OF THIS COURT:-

A. As per Revenue records, previously the land in dispute was shown as in Survey No.274/1 and classified as Natham in an extent of 5 Acre 10 cents. Subsequently, as per A-Register the same was reclassified as Sarkar Manai (Vacant Site) as Survey Numbers.710/1, 710/2 and 710/10, which is adjacent to Arulmigu Vellai Vinayagar Temple, Thuvarankurichi, Trichy. Therefore, as per revenue records all the lands in Survey Numbers belong to Government Sarkar Manai Vacant Site as on today.

B. The writ petitioner seeking to restore the 40 cents of land comprised in Natham Survey No.710/1, 710/2, 710/10 adjacent to Arulmigu Vellai Vinayagar Temple, Thuvarankurichi, in favour of the temple as per the settlement arrived at between the Hindu and the muslim community people of Thuvarankurichi on 21.12.1970.



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Whereas there is no such survey numbers and extent of the area are mentioned in the said compromise settlement dated 21.12.1970 relied by the writ petitioner. Therefore, as per revenue records, all the lands in Survey Numbers belong to Government Sarkar Manai Vacant Site as on today.

C.As per the compromise settlement dated 08.01.1971 arrived with regard to the common lane in Survey No.710/7 to an extent of 66 feet length 3 feet width which is situated at middle of the temple and shops constructed by Muslims were declared as if, the common lane jointly belong to Arulmigu Vellai Vinayagar Temple and Mohamed Kani Ravuthar clan members for the common passage.”

7.This Court considered the rival submissions made and also perused the materials placed on record and the report filed by the Advocate Commissioner.

8.Admittedly, there was an agreement between the Muslim and Hindu community people of Thuvrankurichi on 21.12.1970, wherein, the petitioner was also a party. As per the agreement, Pallivasal agreed to hand over a portion of the land to



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Arulmighu Vellai Vinayakar Temple. According to the Pallivasal, the property has already been handed over in the year 1970 itself, in the presence of the Tahsildar, Manaparai and the Tahsildar, Manaparai has also endorsed the same, whereas, the petitioner claims that the land has not been handed over to the temple. It appears that a writ petition was filed by the Management Committee of Pallivasal in the year 1999 that the agreement of the year 1970 has not been implemented. In the said writ petition, the Pallivasal had taken a stand that they also agreed to hand over a portion of the land which has been taken by them belonging to the temple. If the Pallivasal had handed over the property in the year 1970, then, there is no necessity for stating so in the writ petition filed in the year 1999 that they will hand over the property to Vellai Vinayagar Temple. Unfortunately, in the settlement deed, dated 21.12.1970 as well as in the earlier writ petition, there was no reference about the survey number of the property which was in possession of Pallivasal.



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9.The learned Advocate Commissioner after ascertaining

the adjacent lands has given his report stating that the adjacent lands in S.No.710/1, 710/2 and 710/10 are classified as Sarkar Manai(vacant site). It appears that there is a common lane situate in middle of the temple and the shops constructed by the Muslim community people. This common lane jointly belongs to Arulmighu Vellai Vinayakar Temple and Mohamed Kani Ravuthar clan members. In the absence of any materials that there is any vacant site is available and when the temple authorities have not raised any issue, this Court is not inclined to pass any order in this writ petition.

10.Since this petitioner is a party to the compromise arrived at between the Pallivasal and the Temple in the year 1970, the petitioner can work out his remedy by filing a civil suit before the competent civil Court within a period of three months from the date of receipt of a copy of this order. On such filing of the suit, the trial Court shall dispose of the suit without insisting the period of limitation.



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11. Accordingly, this writ petition is disposed of. No costs.

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NCC :Yes/No

Index :Yes/No

Internet:Yes

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