



W.P.(MD)No.24571 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.10.2023

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CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

W.P.(MD)No.24571 of 2023

and

W.M.P.(MD)No.20768 of 2023

P.Nagarajan

: Petitioner

Vs.

1.The District Collector,
District Collectorate,
Tiruchirappalli District,
Tiruchirappalli.

2.The Revenue Divisional Officer,
Srirengam Division,
Tiruchirappalli.

3.The Tahsildar,
Manapparai Taluk,
Manapparai,
Trichy District.

4.The Inspector – II,
Hindu Religious and Charitable Endowment Department,
Pudukkottai.



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5.The Sub-Registrar,
Manapparasi Sub-Registrar Office,
Manapparai,
Trichy District.

6.Innasi

7.Pavulraj

8.Xavier Mary

9.Devadoss

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the respondents 1 to 5 herein to restore the temple lands of Aulmigu Karuppasamy Thirukoil situated at Palayamkottai Village, Manapparai Taluk, Trichy District specifically S.No.605/1, measuring 0.4.81 Hectares (12 Acres) to their rightful ownership under the management of the hereditary trustees and the Hindu Religious and Charitable Endowment Department and conduct thorough investigation into the fraudulent land transactions that have taken place, including the roles and complicity of all parties involved including the respondents 6 to 9 herein and impose legal accountability on other individuals found responsible for the encroachment, including those who facilitated and benefited from these unlawful activities, on the basis of the petitioner's representations dated 22.05.2017.



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For Petitioner : Mr.P.Saravanakumar
For Respondents 1 to 5 : Mr.P.Thilak Kumar
Government Pleader

ORDER

[Order of the Court was made by **M.SUNDAR, J.**]

Captioned main 'Writ Petition' ['WP' for the sake of brevity] has been filed in this Court on 05.10.2023 with a prayer to restore lands belonging to 'Arulmigu Karuppasamy Thirukovil' situate in Palayamkottai Village, Manapparai Taluk, Tiruchirappalli District [hereinafter 'said temple' for the sake of brevity, inconvenience and clarity].

2.Mr.P.Saravana Kumar, learned Counsel on record for writ petitioner [to be noted, captioned Writ Petition has been filed as a Public Interest litigation] submits that there is an error in the Writ affidavit more particularly in paragraph No.4 as it says that said temple is situate in 12 acres of Natham land bearing Survey No.605/1. Learned Counsel submits that the temple is not situate in this land, this land ie., land admeasuring 12 acres or thereabouts comprised in S.No.605 in No.62 Palayakottai Village, Kulithurai Taluk, Trichy District [hereinafter 'said land' for the sake of



convenience and clarity] [at the Bar learned Counsel for the petitioner submits that it is now in Manapparai Taluk] is situate away from the temple but belongs to the temple. Learned Counsel places reliance on a copy of the resettlement document to say that said land belongs to temple.

3.Complaints of writ petitioner to state with specificity are that:

- a) said land has been alienated;
- b) said land has been encroached.

4.Learned Counsel submitted that there is no dispute that said temple is under the control and management of 'the Tamil Nadu Hindu Religious and Charitable Endowments Department' [hereinafter 'HR & CE Dept.,' for the sake of brevity] and is governed by 'the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959)' [hereinafter 'TN HR & CE Act' for the sake of brevity].

5.Issue notice to official respondents.

6.Mr.P.Thilak Kumar, learned Government Pleader accepts notice for the official respondents ie., respondents 1 to 5.

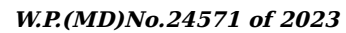


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7.Owing to the narrow scope of the captioned writ petition, main WP will now be disposed of by this order. This course is taken also because of the nature of the order we propose to make and owing to the reason that we will put in a safety valve as regards the rights and contentions of private respondents namely respondents 6 to 9 who are not before us in the admission board. To put it differently, we are acutely aware of the fact that we are disposing of the PIL petition in the admission board when the private respondents are not before us and therefore, we shall be preserving all the rights and contentions of all private respondents and we are not going to express any view or opinion on the merits of the matter and we are going to make an order directing disposal of the representation given by petitioner in this regard to the aforementioned complaints.

8.From the case file and submissions before us, it is seen that the writ petitioner has sent a representation dated 10.08.2021 to the second respondent [The Revenue Divisional Officer, Srirengam Division, Tiruchirappalli].

9.Be that as it may, learned Counsel draws our attention to page No.21 of the typed set of papers and submits that



is as follows:





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10.In the normal circumstances, this Court would not entertain a plea pertaining to a representation said to have been sent six years ago. However, in the case on hand as it pertains to land that is said to belong to a temple, we make an exception and entertain the captioned matter as a one off case making it clear that this order will not serve as a precedent in all and every matter where the PIL petitioner wakes up very late post representation. In this regard, we also deem it appropriate to make it clear that this exception is being made and this trajectory is being taken owing to A.A.Gopalakrishnan principle i.e., ratio in **A.A.Gopalakrishnan vs. Cochin Devaswom Board and others** reported in **(2007) 7 SCC 482**, wherein, Hon'ble Supreme Court had made it clear that as regards the temple properties, the idol is in the status of minor and the court is the guardian i.e., *parents patrea* and *custodia legis* as regards the temple properties.

11.We direct the first respondent to examine the aforementioned scanned communication (representation) and carry it to its logical end. We also request the first respondent to ensure that the rights of private respondents namely respondents 6 to 9 are adequately preserved i.e., by giving them an opportunity to show cause or in any other manner before concluding the drill of disposing of PIL petitioner's representation dated 22.05.2017. We



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make it clear that this does not mean that private respondents are entitled to a personal hearing. Personal hearing if required will be entirely at the discretion of the first respondent depending upon how the matter unfurls before the first respondent.

12.We direct that first respondent shall conclude the proceedings ie., examination of writ petitioner's representation dated 22.05.2017 as expeditiously as the business of first respondent would permit but in any event within twelve [12] weeks from today ie., by **05.01.2023**. A copy concluding the proceedings or disposing of the 22.05.2017 representation shall be communicated to the writ petitioner as well as to the private respondents under due acknowledgment within ten [10] working days from the date of disposal.

13.In the light of the narrative and order made supra, captioned Writ Petition is disposed of as closed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

[M.S.,J.] & [R.S.V.,J.]

13.10.2023

Index : Yes/No
Neutral Citation : Yes/No
MR



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M.SUNDAR, J.
and
R.SAKTHIVEL, J.

MR

ORDER MADE IN
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