



W.P(MD)No.29220 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.29220 of 2023 and
WMP(MD) No.25267 of 2023

Panpozhi Town Panchayat-Grade II,
Rep by its Executive Officer/Chairman,
Panpozhi,
Tenkasi District – 627 807.

... Petitioner

Vs

1. The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Tuticorin.
2. The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Tenkasi.
3. Arulmighu Thirumalaikumaraswamy Thirukoil,
Represented by its Executive Officer/
Assistant Commissioner,
Panpozhi, Tenkasi District.
4. The Tahsildar,
Shencottah Taluk,
Tenkasi District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari to call for the



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records of the impugned order of the first respondent dated 29.11.2023 made in I.A.No.1 of 2023 in M.P.No.141 of 2023 and quash the same as illegal.

For Petitioner : Mr.D.Srinivasaragavan
For R1 & R2 : Mr.P.Subbaraj,
Special Government Pleader
For R3 : Mr.S.Manohar
For R4 : Mr.P.T.Thiraviam
Government Advocate

ORDER

This writ petition is filed as against the order of the Joint Commissioner, HR & CE Department, Thoothukudi in I.A.No.1 of 2023 in M.P.No.141 of 2023, dated 29.11.2023, under Section 78(1) of the HR & CE Act r/w Order 39 Rule 1 & 2 of CPC, restraining the petitioner from putting up any construction in the lands in S.Nos. 513 and 506, Panpozhi Village.

2.The petitioner claims that in the land in S.Nos.513 and 506, they have put up constructions as the land is a Government poramboke and it is not the land belongs to Arulmighu Thirumalaikumaraswamy Thirukoil, Tenkasi. However, the temple administration now claims that the above lands are temple lands and



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they are preventing the petitioner/Panpozhi Town Panchayat, Tenkasi from utilizing the land for solid waste management scheme.

The learned counsel by referring the proceedings of the Assistant Commissioner/ the Executive Officer of Arulmighu Thirumalai Kumaraswamy Thirukoil in Na.Ka.NO.191/2014, dated 04.08.2014 addressed to the Sub Registrar, Panpozhi as to the lands of the temple and also made a request not to register any documents pertaining to certain survey numbers. In that proceedings, the Executive Officer has not made any reference in respect of S.No. 513. According to the learned counsel for the petitioner, the subject land belongs to the petitioner Town Panchayat and it is not the temple land.

3.On the other hand, the learned counsel appearing for the Arulmighu Thirumalaikumaraswamy Thirukoil, Tenkasi/ the third respondent claims right over the subject lands and submits that without any permission of the temple administration, the petitioner Town Panchayat has established a solid waste management scheme in that land and on knowing that, the temple administration has



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initiated action under Section 78 of HR & CE Act. If the petitioner co-operates for the proceedings, it could be disposed of within a reasonable time.

4.This Court considered the rival submissions made and also perused the materials placed on record.

5.The temple administration/the third respondent herein has issued a notice under Section 78 of the HR & CE Act to the writ petitioner to vacate the temple land in S.Nos.506 and 513. The petitioner claims that this is a Government land and not a temple land. With this averment, the petitioner has filed this writ petition that the temple administration is not having any *locus* to issue a notice under section 78 of the HR & CE Act to remove the petitioner from the Government land. In order to ascertain the present condition of the land in dispute, this Court by earlier order dated 12.12.2023 has directed the Tahsildar, Shencottah,Tenkasi/the fourth respondent herein to conduct a survey and to submit a report on the properties in S.No.513, Panmozhi Village. Accordingly, the



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Tahsildar has submitted a report that the land in S.No.506 belong to the temple administration and the land in S.No.513 is a Government poramboke tharisu (Parai).

6.The learned counsel appearing for the third respondent submits that the temple itself is situated in S.No.513 and this temple is in existence for several decades. The Tahsidlar has passed this order based on the available revenue records.

7.It is reported that the petitioner town panchayat have laid a road in the temple land in S.No.506. It appears that even without ascertaining the ownership of the land in S.No.506, the road has been laid. As per the available records, the report has been filed by the Tahsildar that the land in S.No.506 belongs to the temple administration and the land in S.No.513 is a Government poramboke tharisu (Parai). Since the land in S.No.506 is a temple land, the temple administration/the third respondent is having every right to initiate action to restore the possession of the land to its original position. In the event, if the petitioner is having any grievance, the



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petitioner is at liberty to file an appeal under Section 21 of the HR & CE Act before the Commissioner. Insofar as the land in S.No.513 is concerned, as per the available revenue records, and the report of the Tahsildar, this land is classified as Government Poramboke (Parai).

8. The order impugned in this writ petition is an interim order passed by the Joint Commissioner in the proceedings initiated under Section 78 of the HR & CE Act, restraining the petitioner from putting up any construction in the lands in S.Nos.513 and 503 of Panpozhi Village. The proceedings were initiated that these lands belong to Arulmighu Thirumalaikumaraswamy Temple. The report of the Tahsildar disclosed that the land S.No.506 belongs to the above temple. However, the land in S.No.513 is classified as 'Government Poramboke Tharisu'. The temple itself is situated in S.No.513. The petitioner and the temple administration have to work out their remedy with regard to the subject land in S.No.513 before the appropriate Forum. The temple administration shall proceed with the proceedings initiated under Section 78 of the HR & CE Act with regard to the land in S.No.506.



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9. With the above directions, this writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes.

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To

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B.PUGALENDHI, J.

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