



W.P(MD)No.31322 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.12.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P(MD)No.31322 of 2023
and
W.M.P(MD)No.26869 of 2023

M.Sivachandran

... Petitioner

Vs.

- 1.The Revenue Divisional Officer,
Revenue Divisional Office,
Kovilpatti,
Thoothukudi District.
- 2.The Tahsildar,
Kovilpatti,
Thoothukudi District.
- 3.The Inspector of Police,
Naalattinuthur Police Station,
Naalattinuthur,
Thoothukudi District.
- 4.The Executive Officer,
A/M.Shenbhagavalli Amman Temple,
Kovilpatti,
Thoothukudi District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the first respondent to remove the entry 'Government Land' in 'A' register and remove the words 'Kovil Nilam Thadai Seyyapattulluthu' in Patta No.33 both entries in respect of Survey Nos.63, 64, 65/1, 65/2 and 53/5, Kilavipatti Village, Kovilpatti Taluk, Thoothukudi District as per the petitioner's petition dated 30.11.2023 within a time frame fixed by this Court.

For Petitioner : Ms.J.Anandhavalli
For Respondent Nos.1, 2 & 4 : Mr.P.Subbaraj
Special Government Pleader
For Respondent No.3 : Mr.Albert James
Government Advocate

ORDER

The present Writ Petition has been filed by the petitioner for issuance of a Writ of Mandamus, directing the first respondent to remove the entry 'Government Land' in 'A' register and remove the words 'Kovil Nilam Thadai Seyyapattulluthu' in Patta No.33 both entries in respect of Survey Nos.63, 64, 65/1, 65/2 and 53/5, Kilavipatti Village, Kovilpatti Taluk, Thoothukudi District as per the petitioner's petition dated 30.11.2023 within a time frame fixed by this Court.



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2.By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.

3.Heard Ms.J.Anandhavalli, learned counsel appearing for the petitioner, Mr.P.Subbaraj, learned Special Government Pleader, who takes notice for the respondents 1, 2 and 4 and Mr.Albert James, learned Government Advocate, who takes notice for the third respondent and perused the materials available on record.

4.In the land comprised in Survey No.63, Melakkavankarai Pulavakulam Village, there exists a Vinayaga Temple Thaneer Pandal Madom which was constructed by the ancestors of Valli Kannammal. She endowed her properties for performance of charities for providing drinking water to needy on the Dwadasi Thithi day, by a deed of Settlement dated 04.12.1909. The subject of the lands under the settlement deed are an extent of 12 acres and 21 cents in Survey No. 264, 5 acres and 55 cents in Survey No.262-A and 58 cents in S.No. 262-B, an extent of 88 cents in S.No.263 within the boundaries mentioned therein. At present, the corresponding survey numbers are 63, 65/1 (punjai) 65/2 (nanjai), 53/5 (nanjai). She has also appointed



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Muthiah Reddiar, S/o. Alagappa Reddiyar, and Subba Naicker, S/o. Narasimman. The settlee Muthiah Reddiar had executed a deed of Will on 09.05.1940 in favour of Alagappa Reddiar @ Shenbaga Reddiyar, his grandson. The other settlee under 1909 document namely Subba Naicker died issueless 28 years before the execution of Will and this Muthiah Reddiar alone was doing the above said charitable activities. Since Muthiah Reddiar had more than one children, he has specifically given this charity service to be done by his eldest son and the same should be continued by the eldest son in the family. This Will is in favour of the petitioner's grandfather Alagappa Reddiar Shenbhaga Reddiar. When there was a dispute among the legal heirs of Muthiah Reddiar, a suit in O.S.No.194 of 1948 was filed on the file of the District Munsif Court, Kovilpatti seeking for permanent injunction as against the family members. The said suit was dismissed against which an appeal in A.S.No.91 of 1950 was filed on the file of the Sub Court, Thoothukudi, wherein the appellate Court has categorically held that the petitioner's grandfather alone is entitled to function as 'Haqdar' and to do the charities as per 1909 and 1940 documents.



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5.In the meantime, the petitioner's grandfather seems to have approached the Settlement Officer challenging the order of Tahsildar wherein his grandfather and one Gopalsamy Naicker were declared to be entitled as "Hagdars" in respect of Pillayarkoil Thaneer Pandhal Madom. The Revision Petition of his grandfather was allowed and the Settlement Officer has categorically held that Shenbaga Reddiar @ Alagiyaswamy Reddiar alone is the Pillayarkoil Thaneer Pandhal Madom. The said order was also confirmed by the Director of Settlement, by an order dated 12.12.1963. When there was a disturbance in the administration of the abovesaid temple and charity by the Hindu Religious and Charitable Endowments Department, an application in O.A.No.10 of 1969 was filed before the Joint Commissioner, H.R. & C.E. The said application was dismissed on 30.03.1971 and the same was challenged in A.P.No.17 of 1972 before the Commissioner, H.R. & C.E, which was also dismissed on 15.07.1972. Subsequently, the petitioner's grandfather as Hereditary Trustee of Pillayarkoil Thaneer Pandhal Madom had filed a suit in O.S.No.171 of 1973 before the Sub Court, Thoothukudi to set aside the order passed by the authorities. The said suit was dismissed, by judgment and decree dated 26.04.1975. The same was challenged



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before this Court in A.S.No.674 of 1975, which was confirmed on 28.11.1979. In the above stated circumstances, after the death of the petitioner's grandfather in the year 2002, his father was in administration and was doing the kattalais mentioned in the deed of endowment. Subsequently, his father died in the year 2020 and after his demise, the petitioner is in administration and performing the kattalais mentioned in the endowment deed. Absolutely, there is no complaint in respect of the administration.

6.While so, there was a complaint by the fourth respondent to the third respondent as if the temple belongs to the Department and the petitioner was preventing him from putting up a compound wall for the temple. In the mean time, the petitioner gave a petition to the first respondent to change the same in the name of Pillayarkoil Thaneer Pandhal Madom and the patta stands in the name of his father as trustee for the endowment. During enquiry, on 06.12.2023, the third respondent obtained a statement from the petitioner in which he undertook that he will not disturb the construction of the compound wall by the fourth respondent and abide by the result in the petition filed before the first respondent. Though the fourth respondent is permitted to put up the compound wall, the key of the temple is with



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the petitioner and he continues to do all the activities that are required for the temple. The petitioner also gave an undertaking before the fourth respondent that he will abide by the decision of the fourth respondent and it is also recorded that the fourth respondent also will not cause any trouble till the proceedings before the first respondent. Though the complaint and his statement is of recent origin, the fourth respondent taking advantage of his consent for construction of compound wall, obtained EB service connection for the temple. In the revenue records, it is revealed that the abovesaid lands are classified as poromboke. Hence, the petitioner filed a petition before the first respondent on 30.11.2023. Since the said petition has not been considered so far, the petitioner has filed this present Writ Petition.

7.It is brought to the notice of this Court by the learned counsel appearing for the petitioner that the said petition dated 30.11.2023 on the file of the first respondent has been transferred to the file of the second respondent for appropriate action.

8.In view of the above, without going into merits of the case, this Court hereby direct the second respondent to dispose of the petitioner's petition, dated 30.11.2023 and pass appropriate orders on



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merits and in accordance with law, within a period of eight (8) weeks from the date of receipt of a copy of this order.

9. Accordingly, the Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

28.12.2023

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

1. The Revenue Divisional Officer,
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Kovilpatti,
Thoothukudi District.
2. The Tahsildar,
Kovilpatti,
Thoothukudi District.
3. The Inspector of Police,
Naalattinuthur Police Station,
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L.VICTORIA GOWRI, J.

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