



W.P.No.4408 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2024

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.4408 of 2020

S.B.Gandhi

.. Petitioner

vs.

1.The Commissioner,
H.R. and C.E. (Admn) Department,
No. 119, Uthamar Gandhi Salai,
Nungambakkam, Chennai 600034

2.C.Prakasam

3.C.Marimuthu

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the 1st respondent to take action on petitioner's representation dated 16.07.2019, retrieve the lands measuring 1788 sq.mts., comprised in Survey No. 128/5 of Thiruvellaivoyal Village, Ponneri Taluk, Thiruvallur District from the illegal occupation of the 2nd and 3rd respondents.



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For the Petitioner : Mr.G.Vivekanandan
for Mr.S.Udayakumar

For the Respondents : Mr.C.Jayaprakash
Govt. Advocate (HR & CE)
for respondent No.1

: Mr.B.Harikrishnan
for respondent No.3

: No appearance
for respondent No.2

ORDER

(Order of the court was made by the Hon'ble Chief Justice)

We have heard Mr.G.Vivekanandan, learned counsel for Mr.S.Udayakumar, learned counsel for the petitioner; Mr.C.Jayaprakash, learned Government Advocate (HR & CE) for the first respondent; and, Mr.B.Harikrishnan, learned counsel for respondent No.3.

2. Learned counsel for the petitioner submits that the land in Survey No.128/5 is a temple land. The Hindu Religious and Charitable Endowments Department is not taking action to retrieve the said land.



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An *ex parte* decree has been obtained by respondents 2 and 3 without adding the temple as party defendant in the suit. On the strength of the *ex parte* decree, patta was restored. No action is taken by the revenue authorities as well as the temple and also the HR & CE Department.

3. Learned counsel for respondent No.3 submits that, it is because of the personal enmity, the present writ petition is filed by the petitioner. The second respondent died in the year 2014 and the writ petition is filed against a dead person. Patta was issued in the year 1997, which was erroneously cancelled. A suit was filed against the revenue authorities and the said suit was decreed. Thereafter, patta was restored in favour of respondents 2 and 3.

4. We have considered the submissions.

5. The revenue authorities are not parties to this writ petition. It is for the temple and/or the revenue authorities to take steps as against the restoration of patta in favour of respondents 2 and 3. As the decree is in force, no separate order can be passed. The HR & CE



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Department can look into the matter on behalf of the temple and, if it is convinced that the temple has interest in the said property, then the HR & CE Department can take steps in respect of the same as may be permissible under law.

6. With these observations, the writ petition stands disposed of.

There shall be no order as to costs.

(S.V.G., CJ.)

(D.B.C., J.)

12.01.2024

Index : Yes/No
Neutral Citation : Yes/No
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To

The Commissioner,
H.R. and C.E. (Admn) Department,
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THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY,J.

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