



W.P.No.28621 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2024

CORAM:

THE HON'BLE Mr.JUSTICE M.DHANDAPANI

W.P.No.28621 of 2011
and M.P.No.1 of 2011& M.P.No.1 of 2013

1.Dharma Medical Research and Charitable Trust,
No.48, Grand West Trunk Road,
Sriperumbudur 602 105.
Kancheepuram District
Tamil Nadu
Rep.by its Trustee

2.V.Dharmalingam

3.Mageswari Dharmalingam

... Petitioners

Vs.

1.The State of Tamil Nadu
Rep.by Secretary to the Government
Hindu Religious & Charitable Endowments Department
Fort St.George,
Chennai-600 009.

2.The Commissioner,
Hindu Religious & Charitable Endowments Department
Chennai-600 006.

3.The Joint Commissioner,
Hindu Religious & Charitable Endowments Department
Vellore,Vellore District.



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4.The Deputy Commissioner,
Hindu Religious & Charitable Endowments Department
Vellore -9, Vellore District.

5.The Assistant Commissioner
Hindu Religious & Charitable Endowments Department
Kancheepuram, Kancheepuram District.

6.The Executive Officer
Arulmigu Adhikesava Perumal &
Bashyakara Swami Thirukoil,
Kancheepuram, Kancheepuram District.

... Respondents

Prayer: This Writ petition has been filed under Article 226 of the Constitution of India, praying to issue Writ of certiorari calling for the records relating the impugned proceeding of the fourth respondent in Notice No.4938/2011/E1 dated 18.08.2011 quash the same.

For Petitioners : Mr.V.Selvaraj

For Respondents : Mr.K.Karthikeyan
Government Advocate (HR& CE Dept.) for R1 to R5

:Mr.A.K.Sriram
Senior Counsel for M/s.A.S.Kailasam & Associates
for R6

ORDER



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This Writ Petition is filed seeking for quashment of the records relating to the impugned proceeding of the 4th respondent dated 18.08.2011 vide Notice No.4938/2011/E1.

2. The learned counsel for the petitioner would submit that the petitioners are founder trustees of Dharma Medical Research and Charitable Trust. The trust has established two institutions namely Dharma Ayurveda Medical College and Velumailu Siddha Medical College at 48, Grand West Trunk Road, Sriperumbudur, Kancheepuram District. Both institutions have been recognized by the Government of Tamil Nadu, Central Council of Indian Medicine and are affiliated to Dr.MGR Medical University. The said institutions were established after obtaining necessary permission from the Government of Tamil Nadu and approval from the Central Government and other relevant authorities. A portion of the property where the colleges are situated was purchased by the Dharma Medical Research and Charitable Trust from the Trustee of Lakshmi Prabanna Ramanuja Doss Trust represented by its Trustee late Sri Mahant Damodhar Dass by way of two sale deeds dated 03.05.2001 and 30.08.1997 by Document Nos.1911 of 2001 and 4905 of 1997 on the file of District Registrar, Madras South and Lease Deed dated 16.09.1997



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registered as Document No.4906 of 1997 on the file of District Registrar, Chennai South. The total extent of the land obtained by the petitioner's institution is 16.40 acres and thereafter, the revenue records are mutated in their favour and subsequently a portion of land was acquired by the National Highways Authority under the National Highways Act and the Sub-Court, Kancheepuram passed an order in LAOP No.123 of 2007 dated 03.10.2008 holding that the Dharma Medical Research and Charitable Trust alone is entitled to the compensation and dismissed the claim made by the (1) Sri Ram Prabhanachar and (2) Dinesh Diwari. Aggrieved by the dismissal of the LAOP.No.123 of 2007, Sri Ram Prabhanachar has filed A.S.No.760 of 2009 and Dinesh Diwari has filed A.S.No.328 of 2010 before this Court and the same are pending and for the very same properties, there are several disputes are pending before the Civil Courts. Sixth respondent lodged FIR against the petitioners and for which the petitioners have files W.P.No.17181 of 2021. Fourth respondent has initiated proceedings under Section 78(2) of the Tamil Nadu Hindu Religious and Charitable Endowments Act 1959 on the basis of proceedings fifth respondent. Aggrieved by the same, the present Writ Petition is filed.

3. Learned counsel for the petitioners would submit that third



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respondent issued notice under Section 78(2) of the Tamil Nadu Hindu Religious and Charitable Endowments Act 1959. However, in the present case, the title dispute itself pending before the Trial Court in which HR & CE Department has no power to issue notice under Section 78(2) of the Tamil Nadu Hindu Religious and Charitable Endowments Act 1959 unless the issue of title is decided by the Trial Court. Hence, seeks for suitable relief.

4. However learned counsel for the respondents would submit that the respondent prima facie satisfied that the entire property belongs to the temple which is a religious trust and third respondent has only sent a show cause notice for which the petitioner has got remedy to file appropriate objection before the concerned forum and instead of agitating the issue before the third respondent, the petitioners have rushed to this Court by way of this Writ Petition which is not sustainable one and accordingly prayed for dismissal of the Writ Petition.

5. Heard both sides and perused the records.

6. Considering the facts and circumstances of the case and also



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the fact that the impugned notice is only a show cause notice issued under Section 78(2) of the Tamil Nadu Hindu Religious and Charitable Endowments Act 1959 by the third respondent and the petitioners shall canvas the issue before the third respondent, hence, this Court is not inclined to interfere with the impugned order challenged by way of this Writ Petition and the petitioner is directed to file appropriate objection before the third respondent within a period of three weeks from the date of receipt of copy of this order. Upon receipt of the same, the third respondent is directed to pass appropriate orders in the manner known to law.

7. With the above directions, this Writ Petition is dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

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



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M.DHANDAPANI J.

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