



W.P.No.9276 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2024

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THE HONOURABLE MR. JUSTICE S. SOUNTHAR

W.P No.9276 of 2020

and

WMP.Nos.11306 & 11308 of 2020

Perur A/m Pattieswarar Thirukoil Kuthaigai
Vivasaigal Matrum Perur Kilari Neer Pasana
Vivasaigal Nalasangam,
Reg. No.60/2019, Represented by its President,
K.Sivasubramaniam,
84/61, Killari Vayal thottam,
East Thotta Salai, Perur, Coimbatore 641 010.

...Petitioner

Vs.

1. State of Tamil Nadu,
rep. by its Secretary,
Revenue Department,
Fort St.George, Chennai - 600 009.
2. State of Tamil Nadu,
rep. by its Secretary,
Public Works Department,
Fort St.George, Chennai - 600 009.
3. The District Collector,
Coimbatore, Coimbatore District - 641 018.
4. The Commissioner,
Hindu Religious & Charitable Endowments
Department, No.119, Uthamar Gandhi Salai,
Chennai - 600 034.
5. The Joint Commissioner,
Hindu Religious & Charitable Endowment Department,
Coimbatore - 641 018.



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6. The Executive Officer,
Perur Town Panchayat,
Perur, Coimbatore District.

7. The Executive Officer,
Pattieswarar Thirukoil,
Perur.

(R7 Suo-motu impleaded vide order
dated 15.07.2020 made in WP.No.9276 of 2020)

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for all the records on the file of the third respondent in Na.Ka.No.455/2020/P1 dated 03.04.2020 and quash the same.

For Petitioner	: Mr. A. Sundaravadhanan
For R1 to R3 & R6	: Mr.V.Jeevagiridharan, Additional Government Pleader
For R4 & R5	: Mr.K.Karthikeyan Government Advocate
For R7	: Mr.R.Bharaidharan

ORDER

The petitioner has filed this writ petition challenging the order passed by the third respondent granting permission to lay road in the property belonged to the petitioner temple.

2. It is the case of the petitioner that the third respondent, by impugned order, granted permission for laying road from burial ground to Puttuvikki erimedu situated in ward No.2. Even in the impugned order it is clearly stated by the third respondent that out of land with linear measurement



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of 1250 metres required for laying of road, land with linear measurement of 893 metres (with an extent of 9071 square metres) belonged to 7th respondent temple. In the impugned order the third respondent having noted that a portion of the land belonged to the 7th respondent temple, treating the same as a special case, permitted laying of the road in the portion of the land belonged to the petitioner temple. Aggrieved by the same, the petitioner sangam, formed by lessees of land belonged to 7th respondent temple, has come before this Court.

3. The learned counsel for the petitioner submitted that it is not in dispute that 9071 square meters of land belonged to the 7th respondent temple was earmarked for laying of road. In such circumstances, without acquiring the land in a manner known to law, the third respondent is not entitled to lay road in the property belongs to the temple.

4. The seventh respondent, who is the executive officer of the subject temple filed a counter affidavit stating that the third respondent is not entitled to lay the road in the land belonging to the 7th respondent temple without following the procedure contemplated under Section 34 of the TN HR & CE Act.



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5. The petitioner is a Sangam and it collects rent from the tenants who are in occupation of the property belongs to the seventh respondent temple. According to the petitioner, the third respondent, passed the impugned order to utilise 9071 square meters of land belongs to seventh respondent temple without any notice or initiating any acquisition proceedings.

6. It is not in dispute, as seen from impugned order that the land in question belonged to the 7th respondent temple and the third respondent is attempting to lay a road in the temple land. The third respondent is not justified in passing the impugned order without acquiring the land belongs to the temple by following due process of law. Even according to the seventh respondent the third respondent is not entitled to lay road in the land without acquiring it from the petitioner by following the procedure contemplated under Section under Section 34 of the HR & CE Act. When the land of the temple is to be utilised for laying road, permission of the HR & CE Authorities has to be obtained in the light of the order passed by the Division Bench of this Court in W.A.No.574 of 2015.



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7. It is pertinent to mention, the 7th respondent in his proceedings Na.Ka.No.34/2019 dated 01.02.2019, objected laying of road in it's property and informed 6th respondent to get sanction from Commissioner HR & CE under Section 34 of HR & CE Act. The Commissioner HR & CE in his proceedings Na.Ka.No.8899/2019/m2 dated 18.06.2019 communicated to 6th respondent refusing permission for laying road.

8. It is seen from the counter affidavit of the seventh respondent that out of total land required for laying the road, 9071 Sq.meter of land belonging to the 7th respondent is sought to be utilised without acquiring it by following due process of law. Therefore, the impugned order passed by the third respondent District Collector is without sanction of law and the same is not unsustainable. Accordingly, this writ petition is allowed in so far as it relates to laying of the road in the land measuring 9071 square meters belonged to the 7th respondent temple. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

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S. SOUNTHAR, J.

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