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W.M.P.No.17268 of 2020
in W.P.No.10143 of 2020

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N.ANAND VENKATESH, J

This petition has been filed to recall the order passed by this Court on 03.09.2020 in W.P.No.10143 of 2020.

2. Heard Mr.N.Manoharan, learned counsel for petitioner, the first respondent/writ petitioner in person and learned Additional Government Pleader appearing on behalf of the Hindu Religious and Charitable Endowment Department.

3. The order was passed in the writ petition on the basis that the property in question belongs to the temple and it is under the control of the Hindu Religious and Charitable Endowment Department. Therefore, directions were given to the Hindu Religious and Charitable Endowment Department to conduct a field survey, identify the encroachers and take action for removal of encroachments.



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4. The petitioner in this recall petition has come up with a case that the property in question does not belong to the temple and that it is not under the control of Hindu Religious and Charitable Endowment Department and therefore, the order passed in the writ petition must be recalled and the writ petition must be heard on merits.

5. The writ petitioner, who appeared in person, submitted that the property in question belongs to the temple and the same is attempted to be knocked off by some vested interest and therefore, the Hindu Religious and Charitable Endowment Department, must be directed to take control of the property and remove the encroachments.

6. *Per contra*, Mr.N.Manoharan, learned counsel appearing on behalf of the recall petitioner, submitted that the title to the property in question is traceable to the sale deed of the year 1896 and 1910. Learned counsel further submitted that portions of the property were also gifted to the Tiruchengode Municipality for constructing public toilet, noon-meal center,



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library and for other public purposes. The balance was plotted and application was also made to the Tahsildar, Tiruchengode for transfer of patta. The Tahilsdar, Tiruchengode, through proceedings dated 23.10.2015 gave a categoric finding that the property in question does not belong to the temple and therefore, directed transfer of patta to the individuals who have purchased the concerned plots, Tiruchengode Municipality and also pavadi panchayat. This proceedings of the Tahsildar was challenged by the writ petitioner and the patta was cancelled by the DRO, Namakkal. The same became a subject matter of challenge before this Court in W.P.No.11727 of 2018 and the same is pending. While entertaining the writ petition, the order passed by the DRO was also stayed.

7. Learned counsel also brought to the notice of this Court that the Hindu Religious and Charitable Endowment Department also took steps to appoint a Thakkar/fit person, which was put to challenge before this Court in W.P.No.32768 of 2013. This writ petition was disposed of by an order dated 21.04.2023 by giving liberty to the recall petitioner to prefer an



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appeal before the Commissioner of Hindu Religious and Charitable Endowment Department. Accordingly, an appeal was filed before the Commissioner of Hindu Religious and Charitable Endowment Department and the same is pending.

8. This Court has bestowed its attention to the submissions made on either side. It becomes quite apparent that there is a very serious dispute on the issue as to whether the property in question belongs to a temple and consequently, it comes within the control of the Hindu Religious and Charitable Endowment Department. This issue has not been gone into in the writ petition and the writ petition has been disposed of on the premise that the subject property belongs to the temple. Considering the materials that have been placed before this Court, this Court deems it fit to recall the order passed by this Court on 03.09.2020 and restore the writ petition on file. This writ petition can be tagged along with W.P.No.11727 of 2018 and both the writ petitions can be heard on merits.



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In the result, this Writ Miscellaneous Petition is ordered and the order passed in W.P.No.10143 of 2020 dated 03.09.2020 is hereby recalled. The writ petition is restored on file and the writ petition is directed to be tagged along with W.P.No.11727 of 2018 to be heard on merits.

06.08.2024

gm



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