



W.P.No.30998 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2024

CORAM

THE HONOURABLE MR.JUSTICE M. DHANDAPANI

**W.P.No.30998 of 2014 &
M.P.No.1 of 2014**

Senthilnatha Sivachariar

Vs.

... Petitioner

1. The Commissioner,
Hindu Religious and Charitable
Endowments Department,
Nungambakkam High Road,
Chennai 600 034.
2. The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Department,
Dr. Balasundaram Road,
Coimbatore 641 018.
3. The Special Deputy Collector,
Revenue Court, Salem.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Declaration that the act of forcible possession effected by the respondents 1 and 2 on 02.08.2014 in respect of Survey Nos.386 to 392 is null and void.



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For Petitioner
For Respondents

: M/s. Avinash Wadwani
: Mr. K. Karthikeyan,
Govt. Advocate (HR&CE)

ORDER

According to the petitioner, the petitioner's great grand father Nallasamy Gurukkal was managing Arulmigu Putrdiam Kondeewarar Temple, Othakal Mandapam, Coimbatore way back in 1872 as hereditary Trustee. The abovesaid Temple has been placed under the category of expected temple under section 9(5) of Madras Act 11 of 1927 under the order passed in O.A.No.23 of 1944, dated 03.01.1945.

2. By way of Inam title deed dated 18.05.1880, he was granted an extent of 12 hectares of cultivable land as Maniam and patta in respect of the land was also issued in his name on 29.05.1872. The said Nallasamy Gurukkal earmarked an extent of 1.6 hectares for the maintenance of the temple and after his life time, his son Subramania Gurukkal took over administration of Temple and patta for entire 12.69 hectares was issued in favour of Subramania



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Gurukkal and at present, the petitioner who is the son of Subramania Gurukkal has been administering the temple on the line of succession.

3. Whiles, the respondents have initiated proceedings to transfer patta in the name of temple without issuing notice to him and they have also obtained eviction order against him and his tenant one Kandasamy. Challenging the eviction, the petitioner filed W.P.No.19974 of 2004, wherein, a direction was issued to the petitioner to present the matter before the 3rd respondent/Special Deputy collector, pursuant to which, he made a representation on 30.07.2004 before the 3rd respondent.

4. It is the case of the petitioner that while he was away from Coimbatore, for a few days, taking advantage of his absence, all of a sudden, the respondents 1 and 2 have trespassed in to his property and took up forcible possession of the same and the said action of the respondents is highly arbitrary and against the principles of natural justice. Hence, he filed the present writ petition seeking a declaration that the act of such forcible



possession effected by the respondents 1 and 2 as null and void.

5. Per contra, learned Special Government Pleader (HR & CE) appearing for the respondents submitted that the temple was granted with Inam lands measuring 31.35 acres at Othakkalmandapam Village, later under the Minor Inams (Abolition and Conversion into Ryotwari) Act, Ryotwari Patta was granted to the temple and the petitioner's great grandfather name has been mentioned, only in the capacity of representing the temple. as he was the poojari of the temple at that time. The petitioner's family succeeded as poojari in the temple and was also enjoying the temple's land by leasing out the lands to the tenants. After taking charge of the affairs of the temple administration, the Executive Officer, initiated rent recovery proceedings against the defaulted tenants. Upon filing M.P.No.1 of 2013, the Joint Commissioner, H.R.& C.E., Coimbatore ordered for eviction of the tenants from the subject lands, vide order dated 20.05.2014, pursuant to which, the temple administration recovered possession on 01.08.2014 and now the temple is in absolute possession and enjoyment of the subject lands. Hence, as alleged by the



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petitioner, there was no forcible or illegal possession of the subject lands of this writ petition. Therefore, he prayed for dismissal of this writ petition.

6. Heard both sides and perused the materials available on record.

7. In this writ petition, the petitioner seeks for a declaration that the act of respondents 1 and 2 taking forcible possession of property situate at Survey Nos.386 to 392 is null and void. According to the petitioner, an extent of 12 hectares of lands were granted to his great grandfather as maniam by way of an Inam Title deed, pursuant to which patta was also issued in favour of him on 29.05.1872, and since then, the petitioner's family was in possession and enjoyment of the property, whereas, it is the contention of the learned Govt. Advocate, that the temple was granted with Inam lands in SF.Nos.386 to 392 measuring 31.35 acres in the subject property and thereafter, by way of Minor Inams (Abolition and Conversion into Ryotwari) Act, Ryotwari Patta was granted to the temple and the petitioner's great grandfather's name had been mentioned in patta, representing him as Poojari. Subsequently, the Executive Officer of the temple, upon of taking steps for recovery of rent from its



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tenants, who continuously failed to pay the lease amounts, initiated eviction proceedings, wherein, the Joint Commissioner, H.R. & C.E., Coimbatore by order dated 20.05.2014 made in M.P.No.10 of 2013, B1, ordered for eviction of the tenants. Based on the same, the respondents evicted the tenants from the subject lands belonging to the temple. It is also contended by the learned Govt. Advocate that the petitioner, without challenging the order dated 20.05.2014 before the appellate authority/Commissioner, H.R.& C.E., Chennai, the petitioner has filed the present writ petition.

8. It is pertinent to note that the Poojari is not cultivating tenant or lessee, but he holds such land on behalf of temple for the purpose of management. The poojaris have no right to alienate the properties of the temple and they do not acquire any right to alienate the property of the temple. Even Inam granted to a priest is only to manage the property of the temple and not confer ownership right on the priest. It is also seen that the petitioner, without exhausting the appeal remedy available before the Commissioner, H.R.& C.E., Chennai, has straight away come to this Court by way of filing this writ petition.



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9. Therefore, in view of the foregoing discussions, this writ petition fails and the same is hereby dismissed with liberty granted to the petitioner to work out his remedy in the manner known to law. No costs. Consequently, connected miscellaneous petition is closed.

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Index: yes/no
Internet:yes/no
msr

To

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M. DHANDAPANI, J.

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