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W.P.No.19525 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2024

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.19525 of 2024
and WMP.No.21371 of 2024

E.Duraisettu

... Petitioner

Vs.

The Revenue Divisional Officer,
Office of the RDO,
Arani,
Thiruvannamalai District.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, call for the records pertaining to the proceedings Pa.Mu.A6/5958/2023 dated 12.01.2024 on the file of the respondent and quash the same as illegal, incompetent and ultravires.

For Petitioner : Mr.R.Kannan

For Respondent : Mr.A.Selvendran
Special Government Pleader



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ORDER

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Aggrieved by the order passed by the respondent rejecting the request of the petitioner to construct a tower structure in Kanni Kovil in the subject property, the petitioner has come before this Court.

2. According to the petitioner, he and his ancestors have been worshipping the deity in Arulmigu Thanji Amman Kanni Kovil, a temple situated in S.Nos.187/2 and 187/3 at Kattukanallur Village. It is also asserted by the petitioner that the revenue records all along have been standing in the name of the temple and in the year 2014, it was transferred in the name of some private individuals. Therefore, the petitioner approached this Court for rectification of revenue records. Thereafter, the patta had been restored in favour of the temple. As the petitioner wanted to put up a temple tower “Gopuram” and iron fencing around the temple, he submitted a representation to respondent seeking permission.

3. It is also seen one Vanitha w/o.Jayapal also filed an application before the second respondent on 05.09.2023 claiming right over



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the survey numbers in which the temple is located. Earlier, there was a law and order problem with regard to offering worship in the above mentioned temple and proceedings under Section 145 Cr.P.C was initiated by the respondent and the parties were allowed to offer worship in the temple. However, it was made clear, the worshippers were not entitled to claim any adverse possession or right. The construction in the above said survey number was also prohibited in the order passed under 145 Cr.P.C. Proceedings. The respondent after referring to the earlier order passed under 145 Cr.P.C Proceedings initiated by him, rejected the request of the petitioner seeking permission for construction of tower on the ground that there was a possibility of law and order problem in the locality. Aggrieved by the same, the petitioner has come by way of this writ petition.

4. The learned counsel appearing for the petitioner submitted that while considering the request made by one Vanitha, W/o.P.Jayapal, the respondent rejected the request made by the petitioner seeking permission for construction of tower without any basis.



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5. The learned Additional Government Pleader appearing for the respondent by taking this Court to the counter affidavit submitted that the request of the petitioner was rejected mainly on the ground that the permission to put up new construction would create law and order problem in the locality. The respondent in his counter also pointed out that the petitioner has not produced any document in favour of Kanni Koil to establish his right over the above said land and the rival parties claimed right over the said property under sale deed dated 03.03.1926. By taking into consideration all these aspects, the respondent rightly directed the petitioner as well as rival parties to approach the Civil Court to establish their right. In fact, the impugned order also says any person aggrieved by the order can also file revision before the District Revenue Officer. The petitioner has not availed the revisional remedy available before the District Revenue Officer and rushed to this Court by filing the writ petition impleading the rival parties.



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6. Therefore, this Court is not inclined to entertain the writ petition and the same is dismissed however with liberty to the petitioner to establish his right either before the Civil Court or challenge the impugned order by way of availing the revisional remedy before the District Revenue Officer.

7. Accordingly, this writ petition stands dismissed. No costs.
Consequently, connected miscellaneous petition is closed,

09.09.2024

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

The Revenue Divisional Officer,
Office of the RDO,
Arani,
Thiruvannamalai District.



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S.SOUNTHAR, J.

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