IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 06.12.2024

Coram:

THE HONOURABLE Mrs.V.BHAVANI SUBBAROYAN

W.P.No. 13153 of 2014 &
M.P.No.2 of 2014

Ramananda Adigalar Foundation,
rep. By its Authorised Signatory T.Rajkumar
Kumaraguru College of Technology Campus
Chinnavedampatti Post
Coimbatore – 641 049 ...Petitioner

Vs.

1. The Government of Tamilnadu
   rep. By its Secretary,
   Tourism Culture and Religious Endowments Department,
   Fort st.George,
   Chennai – 600 009

2. The Commissioner,
   Hindu Religious and Charitable Endowments Department,
   119, Uthamar Gandhi Salai,
   Nungambakkam, Chennai - 34 ...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of Writ of Certiorarified Mandamus calling for the records of the 1st respondent in G.O.(Per) No.32, Tourism, Culture and Religious Endowments (Aa.Ni.4-1) Department dated 28.02.2014 and the consequent communication issued by the

2nd respondent in Na.Ka.No.67839/2002-I/M2 dated 15.04.2014, quash the same and consequently direct the 2nd respondent to implement the provisions of G.O.(Per.) No.216 Tamil Development , Endowments and Information (Aa.Ni.4-1) Department dated 10.06.2008.

For Petitioner : Mrs. ARL.Gandhimathi
Senior Advocate

For Respondents : Mr.N.R.R.Arun Natarajan
Special Government Pleader

O R D E R

This Writ Petition has been filed to call for the records of the 1st respondent in G.O.(Per) No.32, Tourism, Culture and Religious Endowments (Aa.Ni.4-1) Department dated 28.02.2014 and the consequent communication issued by the 2nd respondent in Na.Ka.No.67839/2002-I/M2 dated 15.04.2014, quash the same and consequently direct the 2nd respondent to implement the provisions of G.O.(Per.) No.216 Tamil Development, Endowments and Information (Aa.Ni.4-1) Department dated 10.06.2008.

2. According to the petitioner, the petitioner is a public charitable trust established in the year 1984 with the objective of establishing and imparting quality technical education and in furtherance of its objective, the petitioner-Trust

established the Kumaraguru College of Technology in the year 1984 and the said college is affiliated to Anna University. Further, under the Rules prevailing at the time of its inception, the college established by the petitioner trust had to be in possession of 150 acres of land. In the year 1984, the petitioner Trust owned 75 acres of land, the Kaumara Madalayam, a Math recognized under the Tamilnadu Hindu Religious and Charitable Endowments Act, 1958 owned a large extent of land adjacent to the Petitioner-Trust and in the year 1985, 'math' executed a gift deed in favour of the petitioner trust for property to an extent of 75 acres. In pursuant to the execution of the gift deed, the revenue records were also altered to reflect the name of the petitioner trust. Therefore, the petitioner Trust established the college after getting all the necessary approval/permission from respective authorities.

3. It is the further case of the petitioner that in the year 2006-2007, the audit department of the 2nd respondent raised objections against the gift deed executed by the 'math' in favour of the petitioner-Trust on the ground that no sanction had been obtained under Section 34 of the Act. On hearing the said objections, the petitioner-trust approached the 2nd respondent and offered to pay the market value as on date with respect to the subject property gifted by the 'math'. Thereafter, the 2nd respondent addressed several communications to the Government

recommending the regularization of the gift deed and in consideration of the recommendations made by the 2nd respondent, the 1st respondent issued G.O.(Per) No.216 dated 10.06.2008 granting permission to the 2nd respondent to regularize the gift given by the above mentioned 'math' in favour of the petitioner-trust, as per Section 34 of the Act. According to the said G.O., the petitioner trust had to immediately remit a sum of Rs.3,79,57,695/- being market value of the subject property in 2004 +12% interest for every year. The petitioner immediately, paid a sum of Rs.3,79,57,695/- to the 'math' and the same was acknowledged by the 2nd respondent through its communication dated 18.07.2008.

4. While so, the 2nd respondent had again written several communications to the 1st respondent stating that several legal complications will arise in the implementation of the G.O.(per) No.216 dated 10.06.2008. However, the petitioner-Trust was unaware of the communications sent by the 2nd respondent to the 1st respondent, since none of it was addressed to the petitioner. However, based on the recommendations made by the 2nd respondent, the 1st respondent issued the impugned G.O.(Per) No.216 dated 10.06.2008 without giving notice to the petitioner, however, the 2nd respondent addressed a communication dated 15.04.2014 to the petitioner-trust which was received on 30.04.2014 directing the petitioner-trust to hand over possession of the property to the 'math'. Challenging

the same the petitioner has come up with the present petition.

5. On the other hand, a counter affidavit has been filed by the respondents contending that 'math' executed a gift deed in favour of Ramananda Adigalar Foundation situated in Kumaraguru College of Technology Campus, Coimbatore for transfering 74.81 acres of punja lands in S.Nos.292, 293, 294/1, 294, 295/3, 297, 298, 326, 327, 333/1, 333/2, 334/4, 335, 338/2 and 343/3 in Saravanampatti village and 602 and 603 in Chinnavedampatti village without any sanction from the statutory authority and the same was deducted in periodical audit of math's accounts and to rectify the same, 'math' sent proposals through the Joint Commissioner, Coimbatore to regularize the alienation of math's property and the proposal was sent to the commissioner to ratify the alienation as sale under Section 34 of the Act. The Government after considering the proposal permitted the commissioner to ratify the sale under Section 34 of the Act, with certain conditions, by G.O.Ms.No.216, TD, RE&I(R.E 4-1) Department dated 10.06.2008 and accordingly, the petitioner paid the amount of Rs.3,79,57,695/-

6. Further, the above order was found defective on the ground that certain procedures, which are to be followed before passing orders relating to the alienation of properties, however, the same has not been followed and the order

restricts the power of the Commissioner in deciding the matter before issuing statutory order. Also, there is no provision under Section 34 of the Act and due notice has to be given to the public / persons having interest in the religious institution, about the proposed sale and the Commissioner has to consider the objections from the public and devotees. Also, the communications sent to the Government from the Commissioner relating to cancellation of an erroneous order need not be made available to the petitioner, since it is not valid as per the statutory provisions. Also, the learned Special Government Pleader produced a communication dated 09.11.2024 by Dr.Thavathiru Kumaragurubara Swamigal, Head of the Mutt, Siravanapuram, Kaumara Matalayam indicating that the land situated at Metubavi village, Kinathakadavu, Pollachi taluk, Coimbatore District measuring an extent of 75 acres ad valued at Rs.45 Crores will be more valuable to the Kaumara Mutt and is acceptable to the Mutt and that the same can be exchanged for the mutt lands in which the Kumaraguru College of Technology at Coimbatore has been constructed.

7. Heard the learned counsel on either side and perused the documents placed on record.

8. It is pertinent to note that Dr.Thavathiru Kumaragurubara Swamigal,

Head of the Mutt, Siravanapuram, Kaumara Matalayam has filed a report dated 09.11.2024, wherein it has been clearly mentioned that in the year 1984, 74.81 acres of land belonging to Kaumara Mutt was given as a gift by the Mutt to the Ramananda Adigalar Foundation for the purpose of establishing an engineering college in the name of Kumaraguru College of Technology, Coimbatore. Hence by way of G.O.Ms.No.216 dated 10.06.2008, it was mentioned that the gift of 74.81 acres by Kaumara Mutt to Ramananda Adigalar was in violation of Section 34 of the TNHR&CE Act and therefore, Ramananda Adigalar Foundation was directed to pay a sum of Rs.3,79,57,695/- to the Mutt as sale consideration of 74.81 acres of land and subsequently, Ramananda Adigalar Foundation paid the said sum to Kaumara Mutt and the sale of 74.81 acres was registered in the name of Ramananda Adigalar Foundation.

9. In pursuance thereto, in the year 2014, G.O.(Per) No.32, Tourism, Culture and Religious Endowments dated 28.02.2015 was issued cancelling G.O.Ms.No.216 dated 10.06.2008 on the ground that subsequent ratification of sale under Section 34 of the TNHRCE act is not possible. Further, as per the Judgment dated 02.06.2023, this Court, in Review Petition Nos.169 and 170 of 2021 has permitted for exchange of temple land and has prohibited sale of temple lands. In compliance thereof, it was suggested that Ramananda Adigalar

Foundation can acquire an extent of 74.81 acres of land within the vicnity of Kumaraguru College of Technology at Coimbatore District and give on exchange the same to the Kaumara Mutt in order to enable Kumaraguru College of Technology at Coimbatore to be in absolute possession and enjoyment of the mutt land in which the college is in existence.

10. It is to be noted that a sum of Rs.3,79,57,695/-, which was paid in the year 2008 by Ramanadha Adigalar Foundation to Kaumara Mutt is being used for the welfare of the Mutt activities, as per the HR & CE directions. Further, the amount of Rs.3,79,57,695/- may also be allowed to be retained by Kaumara Mutt and used for the welfare of the Mutt activities.

11. Also, the land situated at Metubavi village, Kinathakadavu, Pollachi Taluk, Coimbatore District measuring an extent of 75 acres, valued at 45 crores will be more valuable to the Kaumara Mutt and is acceptable by the Mutt and a sum of Rs.3,79,57,695/- paid in the year 2008 is being used for the welfare of the Mutt activities, as per the HR & CE directions.

12. Considering the fact that students' education plays an important factor in any citizens life and the education being rendered to the students in the above

said college, which has been in education field for more than two decades, as thousands of children are studying in the college, this Court is of the view that Mutt may not incur loss as already the college authorities have paid the land value and also offering alternative land, to be transfered in the name of the mutt which will be of use to the Mutt and the authorities of HR & CE Department will take care of the affairs, this Court is inclined to direct the respondents to accept the alternative land in lieu of the existing college land within a reasonable period perferably within 6 months. However, it is made clear that this direction is issued considering the facts and circumstances involved in this case and this direction may not be treated as precedent to any other case.

In view of the above, this Writ Petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

06.12.2024

Index : Yes / No;
Internet : Yes / No
Speaking Order / Non Speaking Order

ssd

To

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   Hindu Religious and Charitable Endowments Department,
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   Nungambakkam, Chennai - 34

V.BHAVANI SUBBAROYAN, J.

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