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W.P. No.21340 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2024

CORAM:

THE HONOURABLE **Mrs. JUSTICE V. BHAVANI SUBBAROYAN**

W.P. No.21340 of 2024
and W.M.P.No.23297 of 2024

C.Govinthasami

.. Petitioner

Versus

1. The Commissioner,
Hindu Religious and Charitable Endowments Department,
No.119, Uttamar Gandhi Road,
Thousand Lights West, Nungambakkam,
Chennai – 600 034.
2. The Joint Commissioner,
Office of the Joint Commissioner, (Admin)
Hindu Religious and Charitable Endowments,
Thiruvannamalai.
3. The Assistant Commissioner,
Office of the Assistant Commissioner,
Hindu Religious and Charitable Endowments,
Krishnagiri – 605 602.
4. The Inspector
Hindu Religious and Charitable Endowments,
Pochampalli,
Krishnagiri District.
5. The Executive Officer,
HR & CE Department,
Arulmigu Thimmaraya Swamy Thirukovil
Mathampattu, Mukkampatty,
Pochampalli Taluk
Krishnagiri District.

.. Respondents



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Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the fourth and fifth respondents from bringing the cultivated Punja lands comprised Survey No.312/1 to an extent of 0.82.50, 312/2 to an extent of 0.04.50, 313/1 to an extent of 1.98.00, 313/2 to an extent of 0.08.50, 314/2 to an extent of 0.03.00 or 7.32 Acres situated at Mathampathy village, Pochampalli Taluk, Krishnagiri District based on petitioner's representation dated 16.07.2024 and dispose the same on merits.

For Petitioner : Mr.M.Saravanakumar

For Respondents : Mr.K.Karthikeyan
Government Advocate

ORDER

This writ petition has been filed for the issuance of a Writ of Mandamus directing the fourth and fifth respondents from bringing the cultivated Punja lands comprised in Survey Nos.312/1, 312/2, 313/1, 313/2, 314/2 to an extent of 0.82.50, 0.04.50, 1.98.00, 0.08.50 & 0.03.00 respectively or 7.32 Acres situated at Mathampathy village, Pochampalli Taluk, Krishnagiri District based on petitioner's representation dated 16.07.2024 and dispose the same on merits.

2. The case of the petitioner is that his father one Chennaiya Naicker and



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his brothers namely Muniappa Naicker, Thimmarayan and Raji @ Chennaiya Naicker were performing poojas at a temple namely Arulmighu Thimmarayasamy, situated at Mathampathy, Kodmanadapatty Post, Pochampalli Taluk, Krishnagiri District. Except Thimmarayan all the forefathers of the petitioner died and the family members of the petitioner are taking care of the said temple for many years and by cultivating lands belonged to the said temple. It is alleged that some third parties tried to disturb the petitioner's forefathers from performing poojas in the said temple. Hence, the petitioner's family filed a suit in O.S. No.373/1987 before the learned District Munsif, Harur and the same was decreed in favour of the petitioner's forefather on 15.06.1988. Since then the petitioner's family is enjoying the temple along with the attached agricultural properties by paying kist and doing agricultural activities. It is contention of the learned counsel for the petitioner that now the fourth and fifth respondents are planning to appoint a new trustee for the said temple and for the lands associated with it, without getting consent from the petitioner. The petitioner submits that kist was paid by Chennaiya Naicker and his brother one Erranaicken, the remote ancestor of Chennaiya Naicker and Muniappanaicker, had took part in the inam abolition enquiry but patta in the name of the deity. The karnam of the village also examined as witness and states that Chennaiya Naicker and Muniappa Naicker performed poojas in the



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said temple and managing the affairs of the temple hereditarily. The said Chennaiya Naicker died leaving his two sons by name Govindasami and Raja and his legal heirs namely Madhaiyan, Durairaj and Krishnan, are all the hereditary trustees of the said temple as of now.

3. The petitioner submits that the respondents 3 and 4 were indulged to appoint non-hereditary trustee to the above said temple and therefore the petitioner's family approached the authorities by way of filing an Original Application in O.A.No.6 of 2022 before the Joint Commissioner, HR & CE, Admin Department, Tiruvannamalai, the second respondent herein, on 27.03.2022 seeking the relief of appointing the petitioners to hold the office of hereditary trusteeship for the said temple as per Section 63(B) of the Hindu Religious and Charitable Endowments Act. However, the second respondent has not disposed the same by holding an enquiry. Therefore, the petitioner has filed a writ petition in W.P.No.12926/2023 before this Court for appointment of the petitioner as the trustee. This Court has passed an order holding that the said O.A.No.6 of 2022 to be decided on merits and a decision shall be taken within a period of three months. It is the contention of the learned counsel for the petitioner that the petitioner has got a decree in his favour in the year 1987 but the fifth respondent is bringing the lands for auction on 15.07.2024 without



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giving opportunity to the petitioner as the petitioner is paying kist till the year 2023 and has been cultivating the lands. But the auction to be conducted by the respondents has to be stopped and without giving opportunity to the petitioner they should not be allowed to conduct action. Hence, prayed for considering the petitioner's claim for cultivating the lands.

4. The learned Government Advocate appearing for the respondents would submit that there is no dispute that the petitioner is cultivating the said lands. Regarding the trusteeship, the matter is pending before the second respondent that will be decided shortly. He would also submit that as per the provisions of Hindu Religious and Charitable Endowments Act, a person cannot be a hereditary trustee as well as manage the agricultural land associated to the temple and pay kist. The petitioner can either choose trusteeship of the temple or manage the agricultural lands.

5. At this juncture, on instructions, the learned counsel for the petitioner submitted that the petitioner is willing to take care of the subject lands which are being cultivated from their forefather's time and it is their only livelihood by doing agricultural activities in the said land. The learned Government Advocate submitted that the petitioner can pay the remaining kist and he can participate in



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the auction to be held on 26.07.2024 and that he will be considered by the authorities concerned.

6. Considering the facts and circumstances of the case, this Court is of the view that the petitioner shall participate in the auction to be held on 26.07.2024 and the authorities concerned shall consider the petitioner for granting such land. Regarding pendency of the O.A.No.6 of 2022, it is left open to the parties to decide the same as per the advice being given by the concerned counsel.

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

26.07.2024

Index:Yes / No
Speaking order / Non speaking order
Neutral Citation Case: Yes / No
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V. BHAVANI SUBBAROYAN, J.,

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