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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.06.2024

CORAM:

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.25288 of 2022
&
W.M.P.No.24254 of 2022

Founder Vythilinga Iyer Family Descendants Trustees
(For Sri Chandrasekara Swami and Sri Lakshminarayana
Perumal Temple)
Agara Mappadugai Village
Mayiladuthurai Taluk & District
Rep. by its Chairman
S.Panchapakesan, S/o.Srinivasan ...Petitioner

Vs.

1.The State of Tamil Nadu
Rep. by its Principal Secretary to Government
School Education Department
Secretariat, Fort St.George,
Chennai-600 009

2.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Nungambakkam, Chennai-600 034

3.The Commissioner,
Directorate of School Education,
DPI Campus, College Road,
Chennai-600 006

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4.The District Collector,
Mayiladuthurai District,
Mayiladuthurai

5.The Chief Educational Officer,
Mayiladuthurai District,
Mayiladuthurai

6.The District Educational Officer,
Mayiladuthurai Educational District,
Mayiladuthurai

7.The Block Development Officer,
Mayiladuthurai Panchayat Union
Mayiladuthurai District

8.Senthil ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the respondents from interfering with the leased out residential houses by the petitioner Temple property in S.No.269/4, Agara Mappadugai Village Road, located on the northern and western side of the temple, covered by Patta No.1139, without any authority of law, in consideration of representation submitted by the petitioner dated 13.09.2022.

For Petitioner : Mr.J.Jayamalan

For Respondents : Mrs.S.Mythreye Chandru, Spl.G.P.(Education) for R1,3,5 and 6

Mr.K.Karthikeyan, Govt.Advocate for R2

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Mr.P.Gurunathan, AGP for R4

Mr.P.Anandakumar for R7

No Appearance for R8

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Mandamus forbearing the respondents from interfering with the leased out residential houses by the petitioner Temple property in S.No.269/4, Agara Mappadugai Village Road, located on the northern and western side of the temple, covered by Patta No.1139, without any authority of law, in consideration of representation submitted by the petitioner dated 13.09.2022.

2. The case of the petitioner is that originally scheme was framed U/s.64(1) of the HR&CE Act and the temples were under the administration of the Board of Trustees and 40 acres in various survey numbers belong to the said temple. There are residential houses built in the temple land in favour of devotees several decades ago and they are being managed by the petitioner trust and getting rent from them. During

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the year 1983, one of the Trustees Mr.Jayaraman s/o Kasinatha Iyer unilaterally executed a settlement deed in Doc.No.1033/1983 to an extent of 1.50 acres comprised in S.No.269/4 in favour of Assistant Elementary Educational Officer, Mayiladuthurai for utilizing it as a play ground for the adjoining Panchayat Union Middle School located three furlongs away. As he is not authorised as per the scheme, the Board of Trustees cannot unilaterally settle the property in favour of the Education Department and that has been also challenged. In W.P.No.3600 of 2023, the petitioner has sought for a Writ of Mandamus to regularize the occupation of the land belonging to the petitioner's trust in comprised in S.No.269/4, Agara Mappadugai Village, Mayiladuthurai Block to an extent of 1.50 acres by the respondent Education Department with proper survey and demarcation of the land by entering into a lease deed with the petitioner's trust in accordance with Sec.34 of HR&CE Act, 1959 and as per the provisions of the scheme settled in O.A.No.29 of 1971 dated 18.04.1972 based on the representation. The said Writ Petition was disposed of by this Court by an order dated 08.02.2023 taking note that in order to preserve the temple property there shall be a direction to the respondents to conduct survey and fence the remaining property of the

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temple besides entering into a lease agreement with the Education Department in respect of which, gift deed was already executed. Such exercise shall be completed within a period of five weeks from the date of receipt of a copy of this order. It is also made clear that no trustee is having any right to sale or mortgage the public temple property.

3. Meanwhile, this Writ Petition has been filed by the petitioner for demarcating and to forbear the respondents from interfering with the leased out residential houses by the petitioner temple property in S.No.269/4,Agara Mappadugai Village Road, located on the northern and western side of the temple. It is also submitted that the construction of school building has been extended even by blocking the pathway utilized by the public in the locality and the management of the temple was not consulted for construction of school building in the land settled for playground purposes. It is also seen that the authorised person contractor is putting up a compound wall and third parties are joining hands with him to remove the houses located on the western side of the compound wall which was leased out to various devotees long ago. According to the petitioner, if the construction is made out, it will affect the residence of

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the leased out premises located on western side and northern side of the temple and access to the other areas. The extent of 1.50 acres covered by the settlement deed has not been earmarked to the field with proper metes and bounds and they are haphazardly constructing the compound wall blocking the pathway of the western side of the temple and the official respondents are not considering the welfare of the Trust, Hence, the petitioner is before this Court seeking to safe guard the interest of the temple.

4. Heard Mr.J.Jayamalan, learned counsel for the petitioner and Mrs.S.Mythreye Chandru, Spl.G.P.(Education) appearing for the respondents 1,3,5 and 6, learned Government Advocate Mr.K.Karthikeyan, appearing for the 2nd respondent, Mr.P.Gurunathan, learned Additional Government Pleader for the 4th respondent and Mr.P.Anandakumar , learned counsel appearing for 7th respondent.

5. This Court in its earlier order dated 08.02.2023 in W.P.No.3600 of 2023 directed the respondents to conduct a survey within a period of five weeks and fence the remaining property of the temple besides

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entering into a lease agreement with the Education Department. The Education Department is hereby directed to segregate the 1.50 acres given under the settlement deed and to take appropriate action to get the lease amount as per the new lease agreement to be executed by the HR&CE Department and the Principal Secretary to the Government, School Education Department, Fort.St.George if not within a period of eight weeks and then fix the appropriate amount which will be the lease amount payable by them to the temple and not to close the pathway of the residential area of the temple and temple area to be safeguarded by fencing it by the HR&CE Department within a period of four weeks from the date of receipt of a copy of this order.

6. With the above observation, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

7. Post the matter for reporting compliance on 29.07.2024.

05.06.2024

Index:Yes/No
Speaking order/Non-speaking order
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Copy To:

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