



W.P.No.31919 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2024

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THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.31919 of 2017

and

WMP.Nos.35066 to 35068 of 2017 and 13223 & 13229 of 2023

M/s. Hindustan Motor Finance Corporation Limited,
Adigathur, Kadambathur P.O.,
Tiruvallur – 631 203,
Rep. by its General Manager and Authorised Signatory
Mr.N.Kannabiran.

...Petitioner

Vs.

1. The Commissioner,
Hindu Religious and Charitable Endowments Department,
119, Uttamar Gandhi Salai, Nungambakkam,
Chennai – 600 034.
2. The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Tiruvallur.
3. Sub-Registrar,
Office of the Sub Registrar,
Manavallanagar, Tiruvallur – 602 002.
4. The Government of Tamilnadu,
Rep. by Secretary to Government,
Industries Department, Chennai.



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(R4 Suo motu impleaded, vide order dated 08.12.2017 made in W.P.No.31919 of 2017.)

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5. Arulmigu Dakshinamoorthy Temple,
Rep. by its Executive Officer/Assistant Commissioner,
Thiruvottiyur, Chennai – 9.

(R5 impleaded, vide order dated 20.03.2018 made in WMP.No.7790 of 2018 in W.P.No.31919 of 2017.) ...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records in relation to the impugned order of the 2nd respondent bearing Na.Ka.No.4387/2017/Aa2 dated 20.11.2017 and quash the same and consequently direct the 3rd respondent to ignore the ban order in Na.Ka.No.1104/2015-1/Aa2 dated 28.07.2015 issued by the 2nd respondent and to proceed with the registration of sale deed in respect of the land in Survey No.280/1 in Adigathur Village measuring an extent of Acre 0.44 cents in favour of the petitioner in accordance with law.

For Petitioner : Mr.V.Prakash, Sr.C,
for M/s.S.Shalni

For Respondents : Mr.NRR.Arun Natarajan, Spl.GP, for R1 & R2
: Mr.LSM.Hasan Fizal, AGP, for R3 & R4
: Mr.Wilson Topaz, for
M/s.AS.Kailasam & Associates, for R5



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ORDER

WEB COPY This Writ petition has been filed seeking quashment of the order of the 2nd respondent bearing Na.Ka.No.4387/2017/Aa2 dated 20.11.2017 and to consequently direct the 3rd respondent to ignore the ban order in Na.Ka.No.1104/2015-1/Aa2 dated 28.07.2015 issued by the 2nd respondent and to proceed with the registration of sale deed in respect of the land in Survey No.280/1 in Adigathur Village measuring an extent of Acre 0.44 cents in favour of the petitioner.

2. It is the case of the petitioner that the aforesaid lands were assigned to Hindustan Motors Ltd., upon the said lands being acquired under the Land Acquisition Act, which were acquired by the State Government. The said lands were utilised for establishment of industry and necessary compensation was also paid to the land owners. Further, the Government of Tamil Nadu also accorded sanction u/s. 44-A of the Act for the transfer of the said lands, vide G.O.Ms.No.70 dated 9.2.2001. Thereafter, Hindustan Motors Ltd., transferred the business of the Chennai Car plant division to the petitioner by way of Business Transfer Agreement dated 14.2.2014 and the Government of Tamil Nadu has also accorded sanction u/s 44-A vide

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G.O. Ms. No.6 dated 22.1.2015. Whiles, when the petitioner attempted to purchase the lands from Hindustan Motors Ltd., the 3rd respondent informed them that the 2nd respondent had issued a ban order dated 28.7.2015 prohibiting registration of several lands, including the lands comprised in S.No.280/1 on the ground that the same is owned by Arulmigu Mutheeshwarar Thirukkoil, Kadambattur. The 2nd respondent had directed the 3rd respondent not to register any lands covered under the said ban order with no objection certificate issued by the HR & CE Department. Since the registration could not be carried out, as the land records carried erroneous information with regard to land owners and compensation was paid to the said land owners, but not to the temple, which affects the business functioning of the petitioner, the present petition has been filed challenging the said ban order.

3. Learned counsel for the petitioner submitted that, to an extent of 44 cents already the State Government acquired land and paid compensation to the land owners and if at all there exists any grievance for the temple, claim has to be made against the individuals who had received the compensation at the relevant point of time. The official respondents have no power to pass



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a ban order against the petitioner property and such power is not available under the HR and CE Act. Accordingly he prayed for necessary orders of this court directing the 3rd respondent to revoke the ban order, enabling the petitioner to deal with the property without any encumbrance.

4. Per contra, the learned Special Government Pleader appearing on behalf of the 1st & 2nd respondents submitted that, in the year 1975, a wrong entry was made in the land records and thereby acquisition proceedings was initiated against the private individuals and not the temple authorities. However, originally the property belonged to A/m.Mutheeshwarar Thirukovil and due to inadvertence, the compensation was paid to the private individuals. Hence this court may grant liberty to the 5th respondent to initiate recovery proceedings in the manner known to law against the persons who received the compensation. However, the ban order is perfectly in order and the petitioner has to approach the competent civil court for appropriate remedy.

5. On the above said contentions, heard learned Additional Government Pleader appearing on behalf of the 3rd and 4th respondent and



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learned counsel appearing on behalf of the 5th respondent and perused the materials available on record.

6. Admittedly, State Government acquired land under Land Acquisition Act and passed an award on 7.3.1975 and thereafter the land was assigned to the petitioner. Subsequently pursuant to the business transaction agreement dated 14.2.2014 the Government accorded sanction u/s. 44 A of the Land Acquisition Act in favour of the petitioner vide G.O.No.6 dated 22.1.2015 for the above said land in S.No.280/1A and compensation was paid to the individuals. While so, after a lapse of four decades, the temple authorities claim as if the acquired land belongs to A/m. Mutheeshwarar Temple and thereby, the ban order came to be passed on 28.7.15 and the petitioner made a representation pursuant to the order of this court and the same was also rejected vide impugned order dated 20.11.17.

7. However, it is to be pointed out that any order passed at present would tilt the scales against the interest of the petitioner who has bona fide started the business and was not at fault at any point of time. Therefore, to that extent the interest of the petitioner is not taken into consideration as



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there is an error in the land records maintained by the State, the State also has to take its share of the blame and the ban order passed deserves to be considered in the above background. Therefore, in the interest of justice, in order to strike balance in between the parties, invoking the extraordinary and inherent jurisdiction under Article 226 of the Constitution, this Court, in the interest of justice, feels that if the petitioner is directed to pay a sum of Rs.10 lakhs as donation in the name of A/m. Vedhapureeshwarar and Dakshinamoorthy Thirukovil, Thiruvottiyur in an interest bearing fixed deposit, that would meet the ends of justice as the interest earned from the said amount could be utilised for the benefit of the temple.

8. Accordingly, the impugned order is set aside in respect of land in S.No.280/1 and 281/7A and the writ petition stands disposed of with the above observations and directions. No costs. Consequently, the connected Miscellaneous petitions are closed.

26.09.2024

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NCC	: Yes/ No
Speaking Order	: Yes/ No
Index	: Yes/ No

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M.DHANDAPANI, J.

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