



W.P.No.33346 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE N. SENTHILKUMAR

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and

W.M.P.No.33080 of 2023

Sri Namjundeswarar Sami Temple,
Denkanikottai,
Represented by its Hereditary Dharmakarthha
D.Mahaprabhu
VIP Nagar, Shoolagiri Town, Post & Taluk,
Krishnagiri District.

... Petitioner

Vs.

- 1.The District Collector,
Krishnagiri.
- 2.The Executive Officer, Town Panchayat,
Denkanikotta, Krishnagiri.
- 3.Kalavathi
- 4.Rekha

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents 1 and 2 to implement the proceedings in Na.Ka.No.16/2023A2 dated 27.06.2023 and further direct the demolition of the building being constructed at Survey No.163, New S.No. 1389/18, Denkanikotta Town Panchayat, Krishnagiri District by respondents 3 and 4.

For Petitioner	:	M/s.R.Poornima
For R1	:	Mrs.V.Yamuna Devi Special Government Pleader
For R2	:	M/s.C.Meera Arumugam Additional Government Pleader
For R3 and R4	:	Mr.R.Bharath Kumar

ORDER

(Order of the Court was made by **S.S. SUNDAR, J.**)

This vexatious writ petition is filed for issuance of a Writ of Mandamus directing the respondents to implement the proceedings dated 27.06.2023 and further to direct the 2nd respondent to demolish the building constructed in Survey No.163 corresponding to New Survey No.1389/18,



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Denkanikotta Town Panchayat, Krishnagiri District.

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2.The case of the petitioner is that the petitioner, which is a Temple represented by its Hereditary Dharmakartha, is the owner of the property in Old Survey No.163 corresponding to New Survey No.1389/18, measuring an extent of 38 sq.m. It is the case of the deponent that an extent of 22 sq.m. in S.No.1390/1 belongs to his family. It is admitted that, during UDR Survey, patta was granted in favour of the deponent in respect of Survey No.1389/18 and S.No.1390/1 by order of the Special Tahsildar, dated 29.08.1994. It is also the case of the petitioner that some private parties, including the respondents 3 and 4, tried to interfere with the petitioner's possession. It is stated by the petitioner that a suit was instituted by the petitioner in O.S.No.351 of 1987 on the file of the District Munsif Court, Hosur, for declaration that the property in S.No.163 is the absolute property of the Temple and for permanent injunction as against several defendants including the 3rd respondent, who is the 4th defendant in the suit. The further case of the petitioner is that one Munusamy, Son of Venkataramanappa, obtained patta for S.No.163 corresponding to New S.No.1390/1 measuring



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22 sq.m. It is on the basis of the fraudulent patta obtained in the name of Munusamy, the same had also been changed in favour of the 3rd respondent in respect of S.No.163 corresponding to New Survey No.1389/18. It is contended that despite the 3rd respondent and the husband of the 4th respondent were parties to the suit and the Civil Court had declared the right of petitioner/plaintiff based on the Revenue documents obtained by the petitioner, the private respondents have put up construction. It is admitted that the private respondents had obtained building plan permission from the local body. However, on the representation of the petitioner, by proceedings dated 27.06.2023, holding that the property in Survey No.1389/18 has been registered in the name of Trustee of the Temple, and since building permission has been granted in favour of the private respondents on the basis of the documents filed by them showing title, the planning permission was cancelled by the Executive Officer of the Denkanikotta Town Panchayat, the 2nd respondent herein, only on the ground that the documents filed by the private respondents for getting planning permission are not credible. It was to enforce the said order, the above writ petition is filed.



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WEB COPY 3.A counter affidavit is filed by the 4th respondent on her behalf and on behalf of the 3rd respondent.

4.This Court carefully considered the judgment in the suit filed by the petitioner for declaration of title in O.S.No.351 of 1987 on the file of District Munsif Court, Hosur. From the judgment, it is seen that the petitioner has obtained a decree declaring the title of the petitioner Temple in respect of the suit properties and also obtained consequential decree for permanent injunction. However, the perusal of the decree in O.S.No.351 of 1987 shows that the petitioner has obtained decree in respect of an extent of 360 sq.ft. in S.No.163 which is classified as Grama Natham. The 2nd item of the suit property is one which falls in S.F.No.163. The 1st item of the suit property has been described with reference to four boundaries. Even though it is now admitted before this Court that the total extent of S.No.163 is more than 56 Acres, it is the case of the private respondents that the writ petitioner has no *locus standi* in respect of the property in Survey No.1389/18 which is corresponding to Old Survey No.163/3A1A1. It is also stated that the



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documents relied upon by the petitioner are relating to Arasakuppam Village and not relating to Denkanikotta Village. This argument may not be entertained, as the suit property claimed by the petitioner according to the decree is in S.No.163, falls within Denkanikottai Village.

5.However, when a decree is obtained in respect of an extent of 360 sq.ft. or thereabout, out of a larger extent of several Acres, the petitioner cannot prevent any development in the entire S.F.No.163. It is to be noted that the petitioner has not even described the suit 2nd item with reference to specific boundaries. The property cannot be identified on ground with the description the petitioner had given in the suit schedule. It is therefore, this Court is unable to countenance the submission of the learned counsel for the petitioner that the petitioner is the owner of the property in which the respondents 3 and 4 are putting up construction.

6.The case of the private respondents is that they have constructed a house long back and that the present construction is only after demolishing the tiled house which was in dilapidated condition due to old age. It is



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further stated that the private respondents had obtained home loan of Rs.25,00,000/- for the construction and the property itself is mortgaged with the Bank from whom the respondents 3 and 4 have obtained loan.

7. When the official respondents have granted planning approval to an individual and construction had been commenced in accordance with the building plan permission granted by the local body, it will be unfair for the local body to unilaterally cancel the planning permission. Even assuming that there is a claim by the Temple authorities, the planning authorities or local body cannot decide as to the title of the petitioner or the private respondents, especially when competent Civil Court alone can go into the issues whether the petitioner has title to the property. When that being the position, this Court is unable to entertain this writ petition which is to enforce the order which is based on one side information without any explanation for the facts that are now revealed.



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8. Accordingly, this writ petition is dismissed. It is open to the private respondents to challenge the order of 2nd respondent or apply for fresh planning permission. No costs. Consequently, connected miscellaneous petition is closed.

(S.S.S.R., J.) (N.S., J.)
14.03.2024

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Note : Issue order copy on 26.03.2024

Internet : Yes

Index : Yes / No

Neutral Citation : Yes / No

To

1. The District Collector,
Krishnagiri.
2. The Executive Officer, Town Panchayat,
Denkanikotta, Krishnagiri.

S.S. SUNDAR, J.



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