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W.P. No.37722 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 16.12.2024

CORAM:

THE HON'BLE MR. JUSTICE M. SUNDAR
AND
THE HON'BLE MR. JUSTICE K. RAJASEKAR

W.P. No.37722 of 2024 & W.M.P. No.40781 of 2024

P. Krishnasamy

Petitioner

vs.

1. The Union Territory of Puducherry
represented by its Secretary to the Government
(HRI & WAKF)
Department of Fisheries, Art & Culture (Cooperation)
Chief Secretariat
Goubert Avenue
Puducherry 605 001
2. The Commissioner
Department of Hindu Religious Institutions & WAKF
III Floor, Collector Office Building
Pettaiyan Chatram
Puducherry 605 009
3. Sri Vedapureeswarar Sri Varadaraja Perumal
Devasthanam through its Trustee
No.22, Mahatma Gandhi Road
Puducherry 605 001
4. The Deputy Collector (Revenue) North-
cum-Sub Divisional Magistrate (North)
No.505, Ground Floor
Revenue Complex
New Saram
Puducherry 605 103

Respondents



Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records in respect of order *vide* letter no.2110/CHRI/PA 2024 dated 21.10.2024 issued by the second respondent and to quash the same and consequently, direct the second and third respondents to de-seal the petition mentioned property and deliver the physical possession of the property within a time frame.

For petitioner	Mr. M. Velmurugan
For respondents	Mr. S. Raveekumar Govt. Pleader (Puducherry) along with Mr. P.S. Kothandaraman Govt. Advocate (Puducherry)

ORDER

(made by M. SUNDAR, J.)

Captioned 'writ petition' (for the sake of brevity 'WP') has been filed assailing a communication from R2 (Commissioner, Department of Hindu Religious Institutions and WAKF) to the jurisdictional Tahsildar, jurisdictional Inspector of Police and Administrative Officer of a temple which goes by the name Sri Vedapureeswarar Sri Varadaraja Perumal Devasthanam, Puducherry (for the sake of brevity, clarity and convenience 'said temple'). This communication dated 21.10.2024 which bears reference no.2110/CHRI/PA/2024 shall be referred to as 'impugned communication', for the sake of convenience and clarity.



2. The property that is subject matter of captioned main writ petition is Old No.52, New No.58, Kamatchi Amman Koil Street, Puducherry under Patta No.211, T.S. No.49, Ward No.C, Block-15, Re-survey No.239 part, admeasuring to 0.01.56 HAC of No.40, Puducherry Revenue Village (for the sake of clarity and convenience 'said property').

3. Mr. M. Velmurugan, learned counsel for writ petitioner submitted that the writ petitioner, along with his elder cousin one R.Muthukumaraswamy, is recognised landlord *qua* said property but inadvertently, as regards Revenue records, name of the registered holder of said property is shown as '211, Easwaran Dharamaraj Koil Present Trustee'. It is the emphatic case of the writ petitioner that this is an error and name of the writ petitioner should have been shown in the Revenue records. It is the further case of the writ petitioner that he has approached the Settlement Officer, Puducherry under Section 23(1) of Puducherry Settlement Act, 1970 (for the sake of brevity 'Puducherry Settlement Act') in this regard and his application has been dismissed *vide* an order dated 16.02.2017 bearing reference S.P.No.7980/DOS/ST-1/E-4/23(1)/2012. It is also averred by the writ petitioner that one Muthu Appasamy Mudaliar allocated the income from said property for first day Kanda Sashti Urchavam of Subramania



Swamy in said temple but it has been recorded in title deed *qua* writ petitioner that Muthu Appasamy Mudaliar died issueless.

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4. Learned counsel for writ petitioner submitted that a public interest litigation (PIL) being W.P.No.18900 of 2024 was filed by one Thiru. Nehru @ Kuppusamy (Sitting Member of Puducherry Legislative Assembly representing Orleampet Constituency) *qua* said property seeking a direction to protect and take possession of said property (direction was sought obviously *qua* official respondents). The writ petitioner is R7 therein. This writ petition was disposed of on 31.07.2024 by another Hon'ble Division Bench recording the statement of the State counsel that action has been initiated under Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (for the sake of brevity 'Public Premises Act') and there was a further direction to proceed as per Public Premises Act but the impugned communication has been made by R2 and possession of said property has also been taken on 23.10.2024.

5. As notice has already been issued, in the hearing today, Mr. S. Raveekumar, learned Government Pleader for Union Territory of Puducherry, along with Mr. P.S. Kothandaraman, learned Government Advocate for Union Territory of Puducherry, are before us. To be



noted, learned State Counsel represent all four respondents.

6. We heard both sides. To be noted, main writ petition was taken up with the consent of both sides.

7. Learned State counsel submitted that impugned communication is an inter-office communication and it is traceable to Sections 3 and 3-A of Puducherry Hindu Religious Institutions Act, 1972 (Act No.10 of 1972) (for the sake of brevity 'HRI Act'). It was also submitted by learned State counsel that said property is both a 'specific endowment' and a 'temple' within the meaning of sub-sections (h) and (i) respectively of Section 2 of HRI Act.

8. From the submissions, case file and papers placed before us, the following chronology comes to light:

S.No.	Date	Event
1	21.06.2024	Administrative Officer of said temple issued notice to writ petitioner
2	24.06.2024	Writ Petitioner sent a reply to 21.06.2024 notice
3	06.07.2024	Another notice issued by Administrative Officer of said temple
4	10.07.2024	Writ Petitioner's reply to 06.07.2024 notice
5	31.07.2024	Order in W.P. No.18900 of 2024
6	16.10.2024	Another notice from Administrative



S.No.	Date	Event
		Officer of said temple to writ petitioner
7	18.10.2024	Reply of writ petitioner to 16.10.2024 notice
8	18.10.2024	Notice from Administrative Officer of said temple
9	21.10.2024	Writ Petitioner's reply
10	21.10.2024	Impugned communication
11	23.10.2024	Possession of said property taken

9. There are two facets of the matter which clearly emerge from the aforementioned chronology set out in the form of tabulation. One facet is that the writ petitioner has been put on notice. It is not a case of the writ petitioner not being put on notice at all. The second facet is that the writ petitioner, while responding to the notices, has made it clear that the registered name holder *qua* said property has been recorded as 'Present Trustee' of said temple. The burden of the song in the replies of the writ petitioner is that such an entry is erroneous, it has occurred due to inadvertence and the writ petitioner is taking steps to rectify this.

10. There is another aspect of the matter that comes to light. This is a gazette publication *i.e.*, Gazette No.71 dated 26.05.1988 published by R2 (proceedings dated 06.06.2024 in No.4662/CHRI/T-1/2019/92 *qua* said property is the subject matter of publication). In

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and by this gazette notification, it is submitted that said property has been clearly set out to be a 'specific endowment' and 'temple' within the meaning of sub-sections (h) and (i) respectively of Section 2 of HRI Act.

11. As already alluded to *supra*, the writ petitioner has clearly averred in no uncertain terms that one Muthu Appasamy Mudaliar (predecessor-in-title) has allocated the income from said property for celebration of first day Urchavam of Kanda Sashti as regards Subramania Swamy deity in said temple. This is articulated in paragraph 3 of the writ support affidavit and this, by itself, shows that the writ petitioner himself is making an averment that said property is a 'specific endowment' within the meaning of Section 2(h) of HRI Act. It is a 'specific endowment' *qua* said temple. As regards R2, 'Commissioner' is a defined term *vide* HRI Act. It is defined *vide* Section 2(b) to be an officer under Section 3 and there is no dispute that the impugned communication has been issued by an officer under Section 2(b) read with Section 3 of HRI Act.

12. The aforementioned gazette notification of the year 1988 being Gazette No.71 has been assailed by this very writ petitioner (P.Krishnaswamy, son of V.K. Palanisamy) in and by writ petition in



W.P.No.30810 of 2024 and the same has been withdrawn by the w...
petitioner *vide* order dated 21.10.2024 and that order reads as
follows:

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'The Writ petition has been filed seeking to quash the impugned proceedings in Gazette No.71, dated 26.05.1988 published by the second respondent which has been referred by the second respondent in his proceedings dated 06.06.2024 in No.4662/CHRI/T-1/2019/92 in respect of the land located with the property premises bearing Door No.58 (old No.52) in Kamatchiamman Kovil Street, Pondicherry in T.S.No.49, R.S.No.239/Part at Ward No.C, Block 15 of 40 Puducherry Revenue Village measuring HAC 00.01.56

2. Today, when the matter is taken up for hearing, the learned counsel for the petitioner submitted that this Court may permit the petitioner to withdraw the writ petition. To that effect, he has made an endorsement in the case bundle.

3. In view of the submission and endorsement made by the learned counsel for the petitioner, this Writ Petition is dismissed as withdrawn. However, liberty is granted to the petitioner to work out his remedy in the manner known to law. Consequently, connected miscellaneous petitions are also closed. No costs.'

13. The aforementioned order makes it clear that liberty is granted to the writ petitioner to work out his remedy in a manner known to law.

14. Learned counsel for writ petitioner submits that this means that the writ petitioner will have to resort to Civil Court but we express no opinion on the same as it is a judicial order and the order only says 'in the manner known to law'. It does not make a mention about Civil Court.



15. We make it clear that with regard to purported inadvertent and erroneous entry in the Revenue records, if the writ petitioner has any remedy available against dismissal order of Settlement Officer, Puducherry, *i.e.*, dismissal order dated 16.02.2017 bearing reference S.P. No.7980/DOS/ST-1/E-4/23(1)/2012, it is open to him to pursue the same.

16. The seminal argument on which the writ petitioner predicated his campaign against impugned communication is, the earlier writ petition order dated 31.07.2024 talks about Public Premises Act whereas the proceedings now appear to be under HRI Act. This argument, in our considered view, does not hold water in the captioned writ petition as the writ petitioner has categorically averred in paragraphs 1 to 3 of writ support affidavit that the Revenue records show said property stands in the name of 'Present Trustee' of said temple and Muthu Appasamy Mudaliar has dedicated said property by way of 'specific endowment' *qua* said temple. Therefore, we have no hesitation in saying that the argument that HRI Act ought not to have been resorted to is a non-starter.



17. In the light of the narrative, discussion and disposition reasoning thus far, we find no ground to interfere *qua* impugned communication. *Ergo*, the sequitur is captioned WP fails, the same is dismissed, albeit with preservation of rights in the aforesaid manner and as preserved by Hon'ble Single Judge in order dated 21.10.2024 in W.P. No.30810 of 2024. Consequently, captioned W.M.P. thereat is also dismissed. There shall be no order as to costs.

(M.S., J.) (K.R.S., J.)
16.12.2024

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NC : Yes/No
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