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W.P. No. 34696 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2024

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 34696 of 2023

and

W.M.P. Nos. 34658 of 2023

M/s. Vadyar Boats Private Limited
Rep. By its Director
Mr.R.Ananthanarayanan
Having office at No.50 (NP) Industrial Estate
Ekkatuthangal,
Chennai 600 032.

... Petitioner

-VS-

1. The Commissioner,
Tamil Nadu Hindu Religious and Charitable Endowments,
Nungambakkam,
Chennai.
2. The Joint Commissioner,
Tamil Nadu Hindu Religious and Charitable Endowments,
Kanchipuram.
3. The Assistant Commissioner,
Tamil Nadu Hindu Religious and Charitable Endowments,
Kanchipuram.
4. The Executive Officer,
Arulmigu Kandaswamy Thirukoil,
Thiruporur,
Chengalpattu District.
5. The Tahsildar,
Thiruporur Taluk,
Chengalpattu District.
(R5 is *suo motu* impleaded vide this order)

... Respondents



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Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records of the 2nd respondent in M.P. No.414/2023/E3/ dated 24.11.2023 and quash the same.

For Petitioner : Mr. K. Chandrasekaran

For Respondents : Mr. K. Karthikeyan,
Government Advocate

ORDER

Heard Mr. K.Chandrasekaran, Learned Counsel for the Petitioner and Mr. K.Karthikeyan, Learned Government Advocate appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. It is the case of the Petitioner that it has filed the suit in O.S. No. 75 of 2022 before the District Munsif Court, Thiruporur (transferred O.S. No. 146 of 2016 from the District Munsif Court, Chengalpattu) against the Temple of the Fourth Respondent seeking the following reliefs:-

“(i) Declare that the Plaintiff is the absolute owner of the suit properties mentioned morefully described hereunder.

(ii) Declare that the Plaintiff has an easement of necessity of a road/pathway of a width of not less than 10 metres from the



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public road, viz., Nemili Road, connecting OMR and ECR through Survey Nos. 161/7, 161/1B1, 161/1B2, 161/1B3, 161/1B4, 161/1B5, 161/1B6, 161/1B7 and 161/1B8 (all punja) in the plaint plan no. 1 coloured yellow or in the alternative as shown in the plaint plan no. 2 and marked as ABCD and coloured as red through Survey Nos. 161/7, 161/1B1, 161/1B2, 161/1B3, 161/1B4, 161/1B5 and Survey No. 243 with sub division (all punja) of the same width, viz., 10 meters.

(iii) Consequently restrain the Defendants their men, servants and agents by a decree of permanent injunction from in any manner preventing or obstructing the Plaintiff from forming a pucca metal road/pathway over the Survey Numbers as stated above.”

While the matter stands as narrated supra, the Second Respondent has initiated proceedings under Section 78(2) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (hereinafter referred to as 'the Act' for short), for eviction of the Petitioner from certain properties belonging to the Temple of the Fourth Respondent as per the details shown in the self-explanatory tabular column below:-



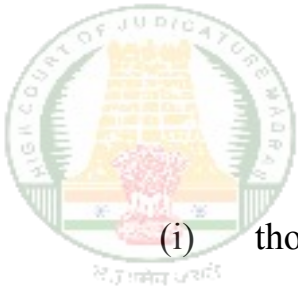
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நகர்	புல எண்	கட்டிடம்/ மனை/ நிலம்	பரப்பளவு
ஈக்காட்டுத்தாங்கள்	161/2 161/6 161/7	நன்செய்	24.88 00.28 01.93 கூடுதல்- 27.09 (ஏ.செ)

Inasmuch as some of the properties forming the subject-matter of the suit filed by the Petitioner have been included in the eviction proceedings, this Writ Petition has been filed challenging the notice for enquiry in M.P. No. 414/2023/E2 dated 24.11.2023 issued by the Second Respondent.

3. Learned Counsel for the Petitioner submits that the documents relied by the Petitioner in the pending suit would also be required to be produced in the impugned proceedings for eviction before the Second Respondent, which would cause severe hardship to the Petitioner in effectively proving its case both before the Second Respondent as well as the Civil Court contemporaneously. There is substantial force in the said contention.

4. Having due regard to the principles underlying Section 79(2) of the Act, the Second Respondent shall dissect the properties in the impugned notice into the following categories:-



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(i) those forming the subject-matter of the suit in O.S. No. 75 of 2022 before the District Munsif Court, Thiruporur; and

(ii) those which are not forming the subject-matter of that suit.

5. In this regard, it would be incumbent upon the Tahsildar, Thiruporur, who is *suo motu* impleaded as the Fifth Respondent in the Writ Petition, to issue due notice to all persons concerned including the Petitioner and the Fourth Respondent, for making inspection of the properties in the impugned notice with police assistance, if necessary, to ascertain the location of the exact portions claimed by the Petitioner in the pending suit and identify the lands said to be belonging to the Temple of the Fourth Respondent with reference to the entries made in the revenue records, which shall be fully videographed at the cost borne by the Third Respondent, and submit its report along with FMB sketch of the entire property to the Second Respondent. After completing the said exercise, the Second Respondent shall issue fresh notice in supersession of the impugned notice without prejudice to the rights of the contesting parties for enquiry in the eviction proceedings under Section 78(2) of the Act in respect of lands which are not the subject-matter of the pending suit and shall not be precluded from conducting further proceedings following the prescribed procedure in accordance with law to complete the same.



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6. In respect of the properties, which form the subject-matter of the pending suit, the Second Respondent would have to await its outcome, depending upon which the further course of action would have to be determined in the matter. Learned Counsel for the Petitioner undertakes to extend full co-operation to expedite disposal of that suit and the District Munsif Court, Thiruporur shall ensure that there is atleast one effective hearing every week showing progress of the case and monthly reports in that regard are sent till the matter is finally disposed to the Registrar (Judicial) of this Court.

In the result, the Writ Petition is disposed on the aforesaid terms. Consequently, connected Miscellaneous Petition is closed. No costs.

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Index: Yes/No

NCC: Yes/No

Note: (i) Issue order copy by 20.03.2024.

(ii) If the monthly reports are not received from the District Munsif Court, Thiruporur or it is reported that there is non-cooperation by the parties for ensuring atleast one effective hearing every week showing progress of the case, the matter shall be listed before the Court with office note and supporting materials without fail.

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To

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Chennai.
2. The Joint Commissioner,
Tamil Nadu Hindu Religious and Charitable Endowments,
Kanchipuram.
3. The Assistant Commissioner,
Tamil Nadu Hindu Religious and Charitable Endowments,
Kanchipuram.
4. The Executive Officer,
Arulmigu Kandaswamy Thirukoil,
Thiruporur,
Chengalpattu District.

Copy to

1. The Registrar (Judicial),
Madras High Court,
Chennai – 600 104.
2. The District Munsif Court,
Thiruporur.
3. M/s. Vadyar Boats Private Limited
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P.D. AUDIKESAVALU, J.

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