



W.P.(MD) No.13613 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 15.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.13613 of 2020

and

W.M.P.(MD)No.11330 of 2020

The Pontiff,
Srimad Bogar Pulipani Swamigal Ashramam,
North Hill Street, Palani,
Dindigul District.

... Petitioner

-Vs-

1.The Executive Officer,
Arulmigu Dhandayudhapani Swamy Temple,
Palani, Dindigul District.

2.The Revenue Inspector,
Palani,
Dindigul District.

3.The Deputy Superintendent of Police,
Palani, Dindigul District.

4.The Palani Municipality,
Represented by the Commissioner,
Palani, Dindigul District.

... Respondents

[R4 is suo motu impleaded vide order dated 30.09.2020]

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WEB C **PRAYER:** Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records on the file of the first respondent in Na.Ka.No.5545/15/C1 dated 21.09.2020 and that the second respondent in proceedings Nil dated 23.09.2020 and quash the same as illegal, incompetent and without jurisdiction.

For Petitioner : Mr.N.Manokaran
for Mr.K.Balasubramani
For R1 : Mr.R.Murali
For R2 & R3 : Mr.Veera Kathiravan
Additional Advocate General
assisted by Mr.S.P.Maharajan
Special Government Pleader

For R4 : Mr.L.P.Maurya

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

The eviction notice issued by the first respondent dated 21.09.2020 is put to challenge in this writ petition.

2.The learned counsel for the petitioner submits that the property in T.S.No.862 is the property belongs to the Ashramam. The respondents treating the petitioner as an encroacher had issued a notice citing the order passed by this



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Court in W.P.(MD)No.23598 of 2017, filed as Public Interest Litigation for removal of encroachment made in the government land. Since there is a dispute between the petitioner and the first respondent herein with regard to the property in question, the petitioner has filed a civil suit in O.S.No.105/1999 and the same was dismissed. The appeal filed against the said judgment and decree in A.S.No. 78 and 79 of 2001 were allowed. The second appeal filed by the Dewasthanam against the said judgment was dismissed and the right of the petitioner over the suit properties were declared positively. He submits that contrary to the judgment and decree made in the civil proceedings initiated by the petitioner, the respondents have issued the present notice without any basis.

3.He further submits that before the notice impugned in this writ petition, no proper survey was conducted. The petitioner requests this Court to direct the respondents to survey the property. The petitioner also undertakes to remove the encroachment on his own, if the survey reveals that the petitioner has made encroachment in the property belonging to the Temple.

4.The learned Additional Advocate General assisted by the learned Special Government Pleader appearing for the official respondents submits that



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the respondents are not interfering with the possession and enjoyment of the petitioner's property in Survey No.862/2. Since there are encroachment in Survey No.86 corresponding to Survey No.889/1, 861/2, 868/3, 877/2A, 877/1C2 and 882/3, the respondents have initiated proceedings to remove the encroachment. He further submits that the date has been fixed to survey and demarcate the property of the petitioner in T.S.No.862 on 18.03.2024 at 11.00 am. Notice has also been issued to the petitioner as well as the rival claimants.

5.Considering the submissions made on either side, the following directions are issued:

(i)The survey shall be conducted on 18.03.2024 at 11.00 a.m., as scheduled by the respondents;

(ii)The survey shall be conducted and the property of the petitioner shall demarcated in accordance with the judgment and decree made in the civil proceedings initiated by the petitioner;

(iii)The Hindu Religious and Charitable Endowment Department shall fix boundaries to the lands belonging to them, once the survey is completed, in order to avoid further encroachments;



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(iv)The survey shall be conducted in the presence of the petitioner as well as any other interested parties;

(v)The petitioner is also directed to be present at the time of survey;

(vi)If the survey reveals that there is some encroachments, the petitioner shall remove the same on his own as per the undertaking given before this Court, failing which necessary action shall be taken to remove the encroachment without putting the petitioner on further notice.

6.With the above direction, this writ petition is disposed of. No costs.
Consequently, connected miscellaneous petition is closed.

[D.K.K., J.] & [R.V., J.]
15.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To.

1.The Revenue Inspector,
Palani,
Dindigul District.

2.The Deputy Superintendent of Police,
Palani, Dindigul District.

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