



W.P(MD)Nos.1454 & 6566 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.02.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P(MD)Nos.1454 & 6566 of 2018
and**

W.M.P(MD)Nos.1516, 8343, 6356 & 6357 of 2018

W.P(MD)No.1454 of 2018:

Arulmighu Mallayasamy Temple,
Represented by its Secretary,
Pallapatti,
Nilakottai Taluk,
Dindigul District.

... Petitioner

VS.

- 1.The District Collector of Dindigul District,
Collectorate,
Dindigul.
- 2.The Special Officer,
Pallapatti Panchayat/Block Development Officer (கி.அ.),
Panchayat Union Office,
Nilakottai,
Dindigul District.
- 3.The Tahsildar,
Taluk Office,
Nilakottai,
Dindigul District.



WEB C 4.K.N.Mani Nadar

W.P(MD)Nos.1454 & 6566 of 2018

... Respondents

(R – 4 is impleaded vide order dated 20.03.2018
in W.M.P(MD)No.5262 of 2018)

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned notice of the second respondent dated 22.12.2017 made in Na.Ka.No.1325/2017/jp3, which was received by the petitioner Temple on 18.01.2018 and quash the same and pass suitable direction, directing the respondents to demarcate the petitioner Temple land of 85 cents in S.No.158/8, Pallapatti Village in favour of the petitioner Temple.

For Petitioner	: Mr.K.Prabhakaran for M/s.K.P.S.Associates
For Respondent Nos.1 to 3	: Mr.V.Nirmal Kumar Government Advocate
For Respondent No.4	: Ms.S.Vijayashanthi

W.P(MD)No.6566 of 2018:

Arulmighu Mallayasamy Temple,
Represented by its Secretary,
Pallapatti,
Nilakottai Taluk,
Dindigul District.

... Petitioner

vs.

1.The District Collector of Dindigul District,
Collectorate, Dindigul.

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2.The Tahsildar,
Taluk Office,
Nilakottai,
Dindigul District.

3.The Special Officer,
Pallapatti Panchayat/Block Development Officer (கி.அ.),
Panchayat Union Office,
Nilakottai,
Dindigul District.

4.K.N.Mani Nadar

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned notice of the second respondent dated 25.11.2017 made in Na.Ka.No.9892/15/Aa3, which was not received by the petitioner Temple till today but filed by the fourth respondent during the course of the application for impleading filed by him before this Court in W.P(MD)No.1454 of 2018 and quash the same and pass suitable direction, directing the respondents to demarcate the petitioner Temple land of 85 cents in S.No.158/8, Pallapatti Village in favour of the petitioner Temple.

For Petitioner : Mr.K.Prabhakaran
for M/s.K.P.S.Associates

For Respondent Nos.1 to 3 : Mr.V.Nirmal Kumar
Government Advocate

For Respondent No.4 : Ms.S.Vijayashanthi



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ORDER

(Order of the Court was made by D. KRISHNAKUMAR, J.)

W.P(MD)No.1454 of 2018 has been filed by the petitioner, to quash the impugned notice issued by the second respondent, dated 22.12.2017, which was received by the petitioner Temple on 18.01.2018 and to direct the respondents to demarcate the petitioner Temple land of 85 cents in S.No.158/8, Pallapatti Village in favour of the petitioner Temple.

2.W.P(MD)No.6566 of 2018 has been filed by the petitioner, to quash the impugned notice issued by the second respondent dated 25.11.2017, which was not received by the petitioner Temple till today but filed by the fourth respondent during the course of the application for impleading petition filed by him before this Court in W.P(MD)No.1454 of 2018 and to direct the respondents to demarcate the petitioner Temple land of 85 cents in S.No.158/8, Pallapatti Village in favour of the petitioner Temple.



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3. According to the petitioner, the petitioner-Temple was allotted to an extent of 85 cents of land by the District Revenue Officer, Madurai in Survey No.158/1, Pallapatti Village in the year 1973 and subsequently, the same was sub divided and assigned as Survey No.158/8. The property in Survey No.158/8 was also demarcated through civil Court proceedings. Since there was a dispute for parking the vehicles, compound wall was constructed on east-west southern sides. Out of 85 cents, an extent of 20 cents of land is left for parking the vehicles of lorry owners. Earlier, the fourth respondent herein filed a Writ Petition in W.P(MD)No.1214 of 2017, seeking to remove the encroachment made by the petitioner-Temple and the Division Bench of this Court, by order dated 14.07.2017, observed that *'However, we make it clear that this order disposing of the Writ Petition filed by the petitioner on account of the patta given to the Temple in respect of the land in Survey No.158/8 should not be construed to be an expression in opinion that there is no encroachment in respect of the property in Survey Nos.158/2 to 7 meaning thereby, it is open to the concerned authorities to take action against the encroachers, if there is any such encroachment.'* Pursuant to the said order, the impugned notice dated 22.12.2017 has been issued by the second respondent/Block Development Officer in W.P(MD)No.1454 of 2018. Subsequent to the impugned notice



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issued by the Block Development Officer, the second respondent/the Tahsildar has also issued the impugned notice, dated 25.11.2017 in W.P(MD)No.6566 of 2018. Challenging both the impugned notices, the petitioner has filed the present Writ Petitions.

4. According to the petitioner, the authority concerned has not given any opportunity to the petitioner-Temple, while issuing impugned notices to them and further the petitioner-Temple filed a suit in O.S.No.69 of 2013 on the file of the District Munsif Court, Nilakottai, seeking declaration for title in respect of the property in question and the Tahsildar, Nilakottai has been arrayed as defendant in the said suit. Pending the abovesaid suit, a settlement has been arrived at between the parties in the Lok Adalat and Award has also been passed in respect of the aforesaid disputed property in question. This aspect has not been considered by the authority concerned while issuing the impugned notices. Therefore, the impugned notices issued by the authority concerned is illegal and the same are liable to be quashed.

5. The learned counsel appearing for the fourth respondent would submit that the petitioner has encroached the property in question and constructed a compound wall around the Temple.



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6.Considering the submissions made on either side, we are of the view that even though the fourth respondent made an attempt before this Court to satisfy that the impugned notices issued by the authority concerned for removal of encroachment in the property in question is perfectly correct, we are not inclined to accept the contention of the fourth respondent for the simple reason that no sufficient opportunity was given to the petitioner to explain the fact that the award has been passed in O.S.No.69 of 2013 in respect of the property in question in Survey No.158/8. Further, according to the parties, the extent of the land is also under dispute as to whether the said compound wall covers under the aforesaid Award. All these aspects require detailed discussions/consideration before the authorities concerned, therefore, we are of the view that both the impugned notices, dated 22.12.2017 and 25.11.2017 issued by the Block Development Officer, Nilakottai and the Tahsildar, Nilakottai, shall stand quashed with the following directions:

(i) The Tahsildar, Nilakottai is directed to issue fresh notice, asking for any objection or representation from the petitioner. On receipt of the said objection or representation, the petitioner-Temple has to place all the relevant records and



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(ii) After issuing notice to the parties concerned, the revenue officials shall conduct the field survey with the assistance of the Taluk Surveyor and demarcate the said property in question. If it is found that there is any encroachment in the property in question, the authority concerned shall take necessary action for removal of encroachment in the property in question, in accordance with law.

(iii) The said exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.'

7. Accordingly, these Writ Petitions are allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

[D.K.K.,J.] [R.V.,J.]
26.02.2024

NCC : Yes / No
Index : Yes / No
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To

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Collectorate,
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- 2.The Special Officer,
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Panchayat Union Office,
Nilakottai,
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- 3.The Tahsildar,
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D. KRISHNAKUMAR,J.
and
R.VIJAYAKUMAR,J.

ps

ORDER MADE IN
W.P(MD)Nos.1454 & 6566 of 2018

DATED : 26.02.2024

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