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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 09.01.2025

Pronounced on : 28.01.2025

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.12287 of 2024
and
W.M.P.Nos.13388 & 13392 of 2024
and
W.M.P.No.17624 of 2024

1.Thulasi

2.D.Palani

.. Petitioners

Vs.

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Housing and Urban Development Department,
Secretariat,
Chennai – 600 009.

2.The Commissioner / Director,
Town and Country Planning,
Government of Tamil Nadu,
No.807, Anna Salai,
Chennai – 600 002.

3.The Joint Director / Member Secretary,
The Mamallapuram Local Planning Authority,
Office of District Town and Country Planning,
Chengalpet,



Chengalpet District.

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4. The District Collector,
Chengalpet District,
Chengalpet.

5. The Sub-Collector / Revenue Divisional Officer,
Chengalpet Revenue Division,
Chengalpet,
Chengalpet District.

6. The Tahsildhar,
Thiruporur Taluk,
Thiruporur,
Chengalpet District.

7. The President,
Illallur Village Panchayat,
Illalur,
Thiruporur Panchayat Union,
Chengalpet District.

8. M/s. Adithya Dairy Farm,
Rep. by its Managing Director,
Mr. R.G. Kumar,
No. 122, Prakasam Road,
M.C.N. Nagar,
Chennai – 600 097.

9. Arulmigu Srinivasa Perumal Temple
Rep. by its Dharmakartha / Trustee,
Sengadu Village, Illalur Post,
Thiruporur – 603 110.
Chengalpet District.

10. Arulmigu Sangodhi Amman Temple
Rep. by its Dharmakartha / Trustee,



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Sengadu Village,
Thiruporur – 603 110,
Chengalpet District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order dated 25.11.2021 made in Na.Ka.No.565/2021.Ma.Vu.Thi.Ku. (Se. Ma-5) passed by the 3rd respondent, which has been received by the 2nd petitioner on 18.03.2024 and to quash the same and consequently, forbear the 1st to 7th respondents from granting any approval / permission in the temple lands in S.Nos.26, 12, 25, 14, 16 and 17/1 of Sengadu Village, Thiruporur Taluk, Chengalpet District.

For Petitioner	.. Mr.M.R.Jothimanian
For R1 to R7	.. Mr.N.Naveenkumar, Govt. Advovate
For R8	.. Mr.Om Prakash, Senior Counsel, For Mr.A.Ilangovan

ORDER

This Writ Petition has been filed in the nature of a Certiorarified Mandamus calling for the records of the order dated 25.11.2021 passed by the 3rd respondent, the Joint Director / Member Secretary, Mamallapuram Local Planning Authority, Chengalpet District and quash the same and



consequently, restraint the 1st to 7th respondents from granting any approval / permission, with respect to the lands in S.Nos.26, 12, 25, 14, 16 and 17 / 1 of Sengadu Village, Thiruporur Taluk, Chengalpet District.

2.During the pendency of the writ petition, in view of the fact that it had been stated that lands also belonged to two of the temples, this Court had impleaded two further respondents as 9th and 10th respondents.

3.In the affidavit filed in support of the writ petition, it had been stated that the writ petitioners are the Dharmakathas / Nattars of Arulmigu Srinivasaperumal Temple, Arulmigu Gangaiaamman Temple and Arulmighu Sangothi Amman Temple, in Sengadu Village, Thiruporur Taluk in Chengalpet District. It was further stated that the temples are non listed temples and are managed by the writ petitioners and other villagers. It had been further stated that the temples also owned property. The details were as follows:



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S.No.12/14	Arulmighu Gangaianman Temple
S.No.16/16	Arulmighu Sengadu Sangothiamman Temple
S.No.17/1	Arulmighu Srinivasa Perumal Temple
S.No.25 (New S.No.27/21)	Arulmighu Sengadu Sangothiamman Temple
S.No.26	Arulmighu Srinivasa Perumal Temple

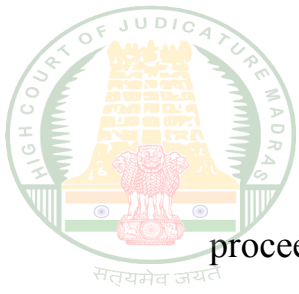
4.It had been further stated that the 8th respondent, M/s.Adithya Dairy Farm, had made an application to the 5th respondent, the Sub Collector / Revenue Divisional Officer, Chengalpet, in February 2024 relating to his real estate business to grant approval for a layout which was proposed to be formed. It had been stated that the villagers raised objection for grant of any such permission. However, the 5th respondent had passed an order on 06.03.2024 to remove the trees along side the temple and to provide road to the 5th respondent. Against that order, a Civil Suit in O.S.No.27 of 2024 had been filed before the District Munsif -cum- Judicial Magistrate, Thiruporur. It had been further stated that the application seeking approval of layout filed by the 8th respondent was approved by the 3rd without examining any of the factors. The 2nd petitioner was able to obtain a copy of the approval granted by the 3rd respondent. It had been contended that the 8th respondent



had filed an application claiming to be the owner of the property in S.Nos.26, 12, 25, 14, 16 and 17 / 1. It had been contended that however, the lands in those survey numbers belonged to the temples. It had been further alleged that the 3rd respondent had mechanically granted technical approval for the proposed layout as given by the 8th respondent. It was under those circumstances that the writ petition came to be filed.

5. During the course of hearing, this Court had directed the 1st and 2nd respondents to furnish a rough sketch of the lands giving the survey numbers and where the layout is to be formed and including the lands of the temple. At the time of initial hearing of the writ petition, a learned Single Judge had granted interim injunction as sought for.

6. A counter affidavit had been filed on behalf of the 3rd respondent. It had been stated that the application given by the 8th respondent was scrutinized and forwarded to the 2nd respondent who by proceedings dated 25.02.2021 granted approval for formation of road within the said layout. It had further been stated that based on the Gift Deed executed by the 8th respondent, the 2nd respondent had issued approval for the layout by

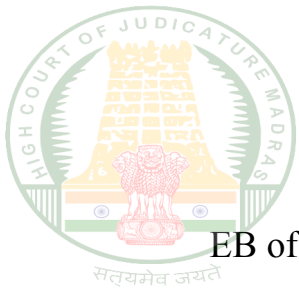


proceedings dated 15.04.2021 subject to the payment of the prescribed fees.

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It had been further stated that S.Nos.27/21, 28/1 and 27/27 were classified as Sarkar Poramboke with remarks 'Theru' and 'way (vazhi)'. It had been stated that based on the revenue records, permission had been granted to form layout. It had however been stated that if S.No.25, New S.No.27/21 belongs to the temple, the 8th respondent has no right to form a layout using temple land as a road. It had thus been contended that the lands of the temple could not form part of the layout.

7. When the matter initially came up for hearing, an interim stay was granted. The 8th respondent then filed W.M.P.No.17624 of 2024 to vacate the order of interim stay. In the affidavit filed in support of the said petition, which could also be construed as counter affidavit of the 8th respondent to the averments made in the writ petition, it had been stated that the 8th respondent was the owner of land measuring 10.87 acres in Sengadu and Illalur Village at Thiruporur Taluk, Chengalpet District. It had been stated that the 8th respondent had sub-divided the land into housing plots and obtained approval from the Joint Director, DTCP, Chengalpet. After forming planning layout, the 8th respondent also gifted lands for OSR, Roads, Park,



EB office, Panchayat office.

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8.It had been stated that so far S.Nos.25 and 26 are concerned, they did not form part of the layout . So far as S.No.12 is concerned there are 18 sub-divisions and only S.Nos.12/14 and 12/16 are temple lands and the said lands are not connected with the layout. Similarly, in S.No.14 there are 21 sub-divisions, none of which have been categorized as temple land. In S.No.16, there are 20 sub-divisions and S.No.16/16 alone is temple land. With respect to S.No.17/1, it had been stated that it had been wrongly classified as temple land in 1986. It had been stated that a suit had been filed in O.S.No.481 of 1986 before the District Munsif, Chengalpet. By judgment dated 14.02.1990, the suit had been dismissed. The First Appeal in A.S.No.67 of 1990 which came up before the Principal Sub Court, Chengalpet was also suffered an order of dismissal on 27.09.1991. A Second Appeal in S.A.No.1538 of 1992 had also been filed, which had also been dismissed on 30.11.1992. It is thus contended that the issue whether the lands belong to the temple had not been finally adjudicated.

9.It had been stated the temple is in no way connected with the lands.



It had been further stated that the writ petitioners and others had also been filed yet another suit in O.S.No.27 of 2024 before the learned District Munsif -cum- Judicial Magistrate, Thiruporur, seeking permanent injunction against the 8th respondent. It is stated that the suit is still pending. It is thus stated that interim order of stay should be vacated and the writ petition should be dismissed.

10.Heard arguments advanced by Mr.M.R.Jothimanian, learned counsel for the petitioners and Mr.N.Naveenkumar, learned counsel for the 1st to 7th respondents and Mr.E.Om Prakash learned Senior Counsel for Mr.A.Ilangovan, learned counsel for the 8th respondent.

11.It is the allegation of the writ petitioners that while granting planning permission for a proposed layout lands of three separate temples namely, the Arulmigu Srinivasaperumal Temple, Arulmigu Gangaianman Temple and Arulmighu Sangothi Amman Temple which were situated in Sengadu Village, Thiruporur Taluk in Chengalpet District were also included in the layout. The petitioners are deeply aggrieved by inclusion of the lands of the temple in the proposed layout. It is for that reason, that the

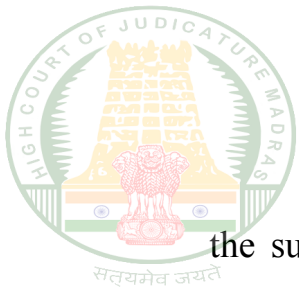


writ petition has been filed seeking that the permission granted for the layout should be set aside insofar as the lands of the temple are concerned.

12.In the affidavit filed in support of the writ petition, an objection had been raised to the inclusion of lands in S.Nos.26, 12, 25, 14, 16 and 17/1.

13.In the affidavit filed in support of W.M.P.No.17624 of 2024, which had been filed by the 8th respondent to vacate the order of interim stay granted by this Court, it had been very clearly stated that the lands in S.Nos.25 and 26 do not form part of the layout. With respect to the lands in S.No.12 is concerned there are 18 sub-divisions and only S.Nos.12/14 and 12/16 are temple lands and that those lands do not form part of the layout. With respect to S.No.14, it had been stated that there are 21 sub-divisions and none of them are temple lands. With respect to the lands in S.No.16, it had been stated that there are 20 sub-divisions, out of which S.No.16/16 alone is temple land and it does not form part of the layout.

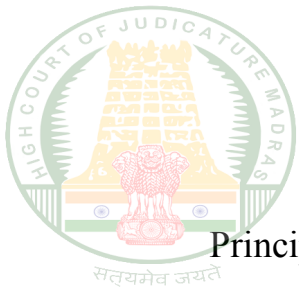
14.It is thus seen that out of the lands mentioned by the petitioners,



the sub-divided temple lands in S.Nos.12 and 16 do not form part of the layout. Further, the lands in S.No.14 do not belong to the temple. The lands in S.No.25 and 16 do not form part of the layout. Very specifically even though S.Nos.12, 14 and 16 had been sub-divided, even the lands which form part of the temple lands after sub-division do not form part of the layout.

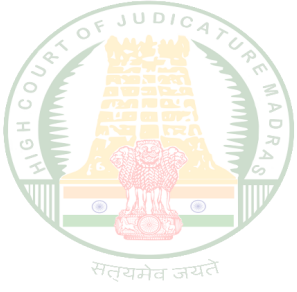
15. With respect to S.No.25, the learned Senior Counsel for the 8th respondent in his arguments pointed out that the petitioners was under a misimpression that it was stand alone survey number. It had been stated that S.No.21/25 alone was part of the layout and S.No.25 was never part of the layout.

16. With respect to S.No.17/1 is concerned, the total area of the land was 1.52 acres. Out of the same, three sale deeds had been effected for 22 cents of land. The remaining 1.30 acres of land still vested with the Temple. The suit was filed that the said sale deeds are null and void in O.S.No.481 / 1986 before the District Munsif Court at Chengalpet. The suit was dismissed. The First Appeal in A.No.67 of 1990 was also dismissed by the



Principal Sub Court, Chengalpet by judgment dated 27.09.1991 and the Second Appeal in S.A.No.1538 of 1992 was also dismissed by judgment dated 30.11.1992. Thus, the temple cannot claim right over the 22 cents of land in S.No.17/1. However, the temple can claim right over the remaining 1.30 acres of land.

17.It is thus seen that the apprehension of the petitioners that the lands of the temple form part of the layout proposed to be put up by the 8th respondent is not founded on facts. The layout has been formed over lands which are not temple lands. It is made clear that the approval could be granted for the lands as submitted by the 8th respondent. But, the layout cannot be granted for the lands which vested with the temple. The lands which vest with the temple are lands in S.Nos.25, 26, 12/14, 12/16, 16/16 and 1.30 acres in S.No.17/1. With respect to 22 cents in S.No.17/1, the petitioners cannot claim any right. Those lands are subject matter of three separate sale deeds dated 03.08.1974, 06.05.1978 and 06.05.1978.



18. With the above observations, this Writ Petition stands disposed of.

No costs.

19. In view of the orders passed, interim stay granted stands vacated.

The vacate stay petition in W.M.P.No.17624 of 2024 stands allowed.

Consequently, other Miscellaneous Petitions are closed.

28.01.2025

Index: Yes/No

Internet: Yes/No

Speaking order / Non-speaking order

Neutral citation : Yes / No

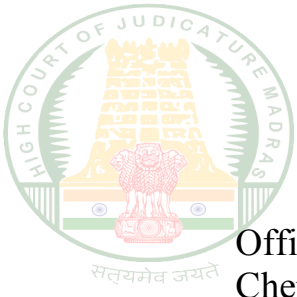
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To

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C.V.KARTHIKEYAN,J.



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Pre-delivery order made in
W.P.No.12287 of 2024

28.01.2025