IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MRS.JUSTICE **K.GOVINDARAJAN THILAKAVADI**

W.P.No.18430 of 2025
and
W.M.P.No.20637 of 2023

V.Karthikeyan
S/o.Vaithiyanathan ...Petitioner

Vs

1. The District Collector
   Cuddalore District
   Office of Collectorate
   Gundu Salai Road
   Alpet, Manjakuppam,
   Cuddalore - 607 001.

2. The Revenue Divisional Officer
   Cuddalore - 607 001.

3. The Tahsildar
   Taluk Office, Beach Road
   Cuddalore - 607 001.

4. The Special Officer
   (Sandrorpalayam Village)
   BDO Office
   Cuddalore - 607 001.
5. Jayammal

W/o.Dhandapani

6. Bakkiyam
W/o.Amakutti @ Kalimuthu

7. Karthi
S/o.Kasinathan

8. Miniammal
W/o.Kasinathan

9. Ananthi
D/o.Kasinathan

10. Ravi
S/o.Pachaiyappan

11. The Commissioner,
Tamil Nadu Hindu Religious and Charitable Endowments Department,
No.119, Uthamar Gandhi Salai,
(previously Nungambakkam High Road)
Chennai-600 034.

12. The Joint Commissioner
Tamil Nadu Hindu Religious and Charitable Endowments Department,
Cuddalore.

13. The Assistant Commissioner
Tamil Nadu Hindu Religious and Charitable Endowments Department,
Cuddalore. ...Respondents

* R11 to R13 suo-motu impleaded
vide order dated 25.07.2025.

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records and quash the proceedings of 3rd respondent as made under Na.Ka.A6/12/2025 dated 03.05.2025 and thereby, forbearing the respondents 1 to 3 from granting residential patta in favour of the respondents / encroachers 5 to 10 in respect of encroached parcel of land situated in Survey Field No.162 in Sandrorpalayam Village, Cuddalore O.T, within the jurisdiction of 4th respondent, under the Regularization of residential encroachments and issuance of Free House Site Patta Scheme as per G.O.(Ms.)No.97 dated 21.02.2025 issued by Revenue and Disaster Management [LD-1(1)] Department, Government of Tamil Nadu, in as much as, it offends G.O.(Ms.)No.64 dated 08.02.2022 issued by Revenue and Disaster Management, Land Disposal Wing, 'LD.6(2)' Section, Government of Tamil Nadu.

For Petitioner : Mr.R.Rajavelavan

For Respondents : Mr.T.K.Saravanan
Additional Government Pleader
for R1 to R4
Mr.N.R.R.Arun Natarajan
Special Government Pleader
for R11 to R13

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ORDER

[Order of the Court was made by **M.SUNDAR, J.**,]

'Two parcels of lands, one comprised in S.No.163/2 admeasuring 1.04.5 Hectares or thereabouts and another comprised in S.No.162 admeasuring 0.24.0 Hectares or thereabouts, both in Sanrorpalayam Village, Cuddalore Taluk, Cuddalore District' {hereinafter 'said lands' collectively for the sake of brevity, convenience and clarity} constitute the subject matter of the captioned main 'Writ Petition' {hereinafter 'WP' for the sake of brevity, convenience and clarity}.

2. As regards said lands, wherever it is necessary to refer to the two parcels separately, we shall be referring to 'lands comprised in S.No.163/2 admeasuring 1.04.5 Hectares or thereabouts' as 'I parcel of said lands' and 'lands comprised in S.No.162 admeasuring 0.24.0 Hectares or thereabouts' as 'II parcel of said lands'.

3. Writ Petitioner [V.Karthikeyan, Son of Vaithiayanathan] is concerned for 'Sri Pachaivazhiamman Temple in Sandrorpalayam Village, Cuddalore District' {hereinafter 'said Temple' for the sake of brevity,

convenience and clarity}.

4. Mr.R.Rajavelavan, learned counsel on record for writ petitioner and Mr.T.K.Saravanan, learned Additional Government Pleader for official respondents - R1 to R4 are before us.

5. Though the writ petitioner has described himself as 'Hereditary Trustee' of said temple as well as one 'Mannathasamy Thirukovil, also in Sandrorpalayam Village, Cuddalore District' {hereinafter 'said another Temple' for the sake of brevity, convenience and clarity}, no order under Section 63(b) of 'the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 [Tamil Nadu Act 22 of 1959]' {hereinafter 'TNHR&CE Act' for the sake of brevity} has been placed before us. Therefore, this Court wanted to know the basis on which the writ petitioner has described himself as Hereditary Trustee of the said Temple and said another Temple. In response to this, learned counsel placed reliance on a judgment dated 11.09.2017 in O.S.No.274 of 1996 on the file of the Principal District Munsif Court, Cuddalore, (to be noted one Chinnaraju

Asari and writ petitioner's father S.Vaidyanathan are plaintiffs in this suit). This suit is one for recovery of possession, mesne profits and other incidental reliefs. In this suit, while capturing plaint narrative (plaintiffs' pleadings), the averment in the plaint that Chinnaraju Asari and S.Vaidyanathan filed a suit for declaration of their status as Hereditary Trustees vide O.S.No.269 of 1980 on the file of the Sub-Court, Cuddalore, which was dismissed but reversed in A.S.No.30 of 1984 vide judgment dated 17.09.1985 on the file of the District Court, Cuddalore District has been captured. Besides this, in judgment dated 11.09.2017 in O.S.No.274 of 1996, an additional issue regarding the *locus standi* of Chinnaraju Asari and S.Vaidyanathan (S.Vaidyanathan being father of the writ petitioner V.Karthikeyan) was framed and the same was answered in favour of the plaintiffs thereat on the basis of Ex.A1 and Ex.A2, certified copies of decree in A.S.No.30 of 1984 on the file of District Court, South Arcot, Cuddalore and decree in S.A.No.1890 of 1985 (decree dated 22.04.2010) respectively. These exhibits are not before us and as already alluded to supra, no order under Section 63(b) of TNHR&CE Act has been placed before us. Whether the suit in O.S.No.269 of 1980 is a statutory suit under Section 70(1) of

TNHR&CE Act and as to whether S.A.No.1890 of 1985 is a further statutory appeal under Section 70(2) of TN HR&CE Act is not clear.

6. Though the judgment in A.S.No.22 of 2018 dated 19.11.2019 on the file of II Additional Subordinate Judge's Court, Cuddalore as well as judgment dated 11.09.2017 in O.S.No.274 of 1996 on the file of the Principal District Munsif Court, Cuddalore deal with the locus of the writ petitioner's father qua said Temple and the question as to whether he is the Hereditary Trustee, we are of the view that the Civil Court decrees do not confer the status of Hereditary Trustee on the writ petitioner's father much less does it confer the status on the writ petitioner. The reason is, Section 108 of TNHR&CE Act clearly bars suits and legal proceedings in respect of matters for which a specific provision is made under TNHR&CE Act for rendering a decision on the same.

7. Section 108 of TNHR&CE Act reads as follows:

> *'108. Bar of suits in respect of administration or management of religious institutions etc., - No suit or other legal proceedings in respect of the administration or*

management of a religious institution or any other matter or dispute for determining or deciding which provision is made in this Act shall be instituted in any Court of Law, except under and in conformity with, the provisions of this Act.'

8. Therefore, the Civil Court decrees insofar as it pertains to the Hereditary Trusteeship of the writ petitioner's father are concerned, the same are clearly hit by Section 108 of TNHR&CE Act. We make it clear that all the other aspects of the Civil Court decrees will continue to operate as the Courts are *parenti partria* qua temple properties.

9. Reverting to the case on hand, we deem it appropriate to examine the matter in the light of ***A.A.Gopalakrishnan*** principle ***{A.A.Gopalakrishnan Vs. Cochin Devaswom Board and others*** reported in ***(2007) 7 SCC 482}*** i.e., the principle that it is a sanctus duty of Courts to protect temple properties (to be noted, idol is akin to a minor, Court is a guardian and the Court is *custodia legis* qua public temple properties).

10. As regards I parcel of said lands, learned State Counsel submits that no patta will be issued with regard to the same. This ensures that the

Temple property is safeguarded. This takes us to the question of issuing patta to II parcel of said lands which according to the writ petitioner is Panchayat road and an access to I parcel of said lands. In this regard, it is submitted by the learned State Counsel that the access is sufficient and in any event, there is one another access to I parcel of said lands. We leave this question open as it is a factual disputation and instant matter is in writ jurisdiction. In the light of our observations regarding Hereditary Trusteeship, we deem it appropriate to *suo-motu* implead (i) the Commissioner, Tamil Nadu Hindu Religious and Charitable Endowments Department, No.119, Uthamar Gandhi Salai, (previously Nungambakkam High Road), Chennai-600 034; (ii) the Joint Commissioner, Tamil Nadu Hindu Religious and Charitable Endowments Department, Cuddalore; and (iii) the Assistant Commissioner, Tamil Nadu Hindu Religious and Charitable Endowments Department, Cuddalore as R11 to R13 in the captioned WP.

11. The decision, if any, regarding issue of patta to private respondents R5 to R11 or any other individual or entity shall not be taken without calling

for objections from R12.

12. If there is no declaration under Section 63(b) of TNHR&CE Act that the Trusteeship of said Temple and said another Temple are Hereditary, R13 shall appoint a Fit Person within a fortnight from today. In this regard, if the writ petitioner wants to stake his claim as Hereditary Trustee, questions are left open and rights of the writ petitioner are preserved.

13. In the result, though we are not interfering with the impugned communication dated 03.05.2025, we make it clear that issuance of patta under G.O.(Ms.)No.97 dated 21.02.2025 issued by Revenue and Disaster Management [LD-1(1)] Department, Government of Tamil Nadu qua II parcel of said lands, if at all and if that be so, shall not be done without calling for objections (if any) from R12 and in this regard, we make it clear that all rights and contentions of private respondents (R5 to R10) or any other persons, who may claim patta under G.O.No.97 stand preserved. This order therefore does not impact the rights of private respondents R5 to R10, on the contrary it preserves their rights, it is in this view of the matter that

we have dispensed with notice to private respondents and taken up the main WP with the consent of learned counsel for writ petitioner and the two State Counsel.

Captioned WP disposed of in the aforesaid manner. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

[M.S.,J.] **[K.G.T.,J.]**

25.07.2025

Index : Yes / No
Neutral Citation : Yes / No
Speaking order / Non-speaking order

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M.SUNDAR, J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,

Page Nos.12/13

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25.07.2025