



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2025

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THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

W.P.No.27971 of 2024

Arulmighu Kumbeswaraswami Thirukoil,
Represented by its Chairman of Board of Trustees C.Jedaiswamy
Board of Trustees, Hasanur – 638 401,
Talavadi Taluk, Erode District.

... Petitioner

Vs.

1. The District Collector,
Collectorate, Erode District – 638 011.

2. The Superintending Engineer,
TANGEDCO,
Gobi Electricity Distribution Circle,
Tirupur Main Road,
Nagadevanpalayam Post,
Gobichettipalayam – 638 476.

3. The Tahsildar,
Talavadi Taluk,
Talavadi – 638 461,
Erode District.

4. The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Jawan Buildings 2nd Floor,
Erode District – 638 001.
[R4 impleaded vide order dated 17.10.2024
made in W.M.P.No.32687 of 2024]

... Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari, calling for the records relating to the impugned order dated 22.07.2024 made in Na.Ka.No.11799/2022/E2 on the file of the first respondent herein and quash the same.

For Petitioner	: Mr.T.Murugamanickam, Standing Counsel for M/s.Zeenath begam
For R1 & R3	: Mr.P.Sathish, Additional Government Pleader
For R4	: Mr.S.Ravichandran for HR & CE

ORDER

This writ petition has been filed challenging the impugned proceedings of the first respondent dated 22.07.2024.

2. The case of the petitioner Temple is that the Temple is the owner of the agricultural lands in S.Nos.97/2, 98/3 and 108/1 at Hasanur Village. All of a sudden, survey and measurements were undertaken at S.No.108/1 and when the same was objected and questioned, it came to light that the first respondent through proceedings dated 22.07.2024 had authorized the transfer of 1 acre of the property situated at S.No.108/1 in favour of the second respondent in order to erect an electricity sub-station. Aggrieved by the same, the petitioner Temple has challenged the



proceedings of the first respondent dated 22.07.2024 by filing the present writ petition.

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3. The third respondent has filed a counter-affidavit. The third respondent has taken a stand that there was a demand by the people living in the hill terrain seeking for electricity connection and a request was made for formation of a sub-station. On considering the said demand, a survey was done and the feasible location was identified in S.No.108/1. Considering the grievance expressed by the people, a decision was taken to put up the sub-station in the property that was identified. While going through the A-Register, it was found that S.No.108/1 has been classified as a Sarkar Poromboke and in the remarks, it has been mentioned as Kovil. Since the remarks column mention as Kovil, necessary proposals were sent to the Commissioner of Land Administration and the Commissioner of Land Administration empowered the District Collector, Erode, to issue enter-upon permission to the Tamil Nadu Electricity Board. Thereafter, the Tamil Nadu Electricity Board entered into the land for constructing the sub-station.

4. It is further stated in the counter-affidavit that a survey was



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conducted and it was found that the lands were lying vacant and it was a non-objectionable Sarkar Poromboke which can be utilized for public purposes. This fact was informed by the first respondent to the Commissioner of Land Administration. Thereafter, the first respondent conducted an enquiry and after hearing the HR & CE Department and also after going through all the relevant records, it was ascertained that the subject property does not belong to the Temple. Therefore, it was declared that S.No.108/1 at Hasanur Village is only a Sarkar Poromboke land and accordingly it was decided to hand over the same to the second respondent for putting up sub-station.

5. The fourth respondent has filed a counter-affidavit. The stand that has been taken by the fourth respondent in the counter-affidavit is extracted hereunder:-

"4. I humbly submit that, the above said temple, Viz.. Arulmighu Kumbhaeswarar Thirukoil, is situated in S.No.108/1, to an extent of 9.38.50 Hectares, situated in Asanur Village, Thalavadi Taluk, Erode District. The remaining lands are being used to conduct festivals and the temple is in the absolute possession and enjoyment



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of the above said lands. Hence, the above said lands, are been classified as Sarkar Poramboke and in the column-note it is classified as Temple, in "A" registrar.

5. I humbly submit that, meanwhile, The District Erode, vide his proceedings, in Na.Ka.No.11799/2002/U.2/ dated 22.07.2024, by Sub-dividing an extent of 0.40.50 Hectares of lands, (1 Acre), out of the above 9.38.50 Hectares, had transferred, the said lands, to the Tamilnadu Electricity Consumption and Electricity Distribution Board, to put up Tamil Nadu Electricity Sub-Station.

8. I humbly submit that, as per the revenue standing orders, the lands in S.No. 108/1, to an extent of 9.38.50 Hectares, (including the 1 acre of lands allotted to the Electricity Board), situated in Asanur Village, Thalavadi Taluk, Erode District, in the Village Register, in the occupation column No-12, it is stated as Temple. As per the Revenue Standing order 26 Rule 13(2), the above said lands can be construed as temple Poramboke.

Order 26, Rule 13 (2) of Revenue



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Standing, is extracted as follows;

"13.Temple poramboke (2)

Occupations of the temple porambokes found to be in excess of the requirements of the temple may be permitted to be utilised not only for purpose of cultivation, but also for purposes such as construction of houses, business premises, etc which will augment the revenues of the temple The temple porambokes so permitted will be sub divided and transferred to Assessed Waste and assigned to the temple free of cost with a patta in its name and the temple (ie. Whoever manages the temple) might then lease out such lands for cultivation of other purposes and utilise the Income for the temple purposes. The above concession is granted subject to the following conditions:-

(i)The temple authorities before applying for the assignment of the porambokes found in excess of the requirements of the temple and



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worship, should obtain the consent of the Hindu Religious and Charitable Endowment (Administration) Department.

(ii) Such lands should be granted for cultivation only if they are cultivable lands and if they are not cultivable, they should be put to other uses for the benefit of the temple.

(iii) The land should be used only for the purpose for which it is assigned.

(iv) A separate list of encroachments detected in the course of the fasli should be put up at Jamabandi before the Jamabandi officer. The action taken to remove such encroachments other than those purely temporary ones, connected with festival or religious ceremonies should be reviewed by the Collectors at the end of every falsi.

10. I humbly submit that, as per the Order 24 Rule 13(2) of the Revenue Standing Order, the temple lands, shall be used only for the temple purpose and cannot be transferred, without the



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prior permission of the Commissioner, HR&CE, Chennai. Hence, the impugned order, passed by the District Collector, Erode, transferring/allotting, the above lands belonging to the temple, is not sustainable and the same is liable to be quashed.

14. I humbly submit that, hence, temple is only the owner of the above said lands, but, contrary, without obtaining permission from the Commissioner, HR&CE, Chennai, the 1st respondent herein, had passed the impugned order, transferring the above said lands, to the 2nd respondent. The temple lands, can be used only for the benefit of the said temple. Hence, the impugned order passed by the 1st respondent suffers from infirmity and the same is liable to be quashed.

4) I respectfully submit that in the meantime hundreds of people living in the hill villages have jointly submitted a petition (with signatures) to the District Collector, Erode on 28.08.2023 requesting for the formation of substation in no.108/1 which is the feasible location since existing infrastructure was laid before 50 years when the number of households were less and they do not get electric



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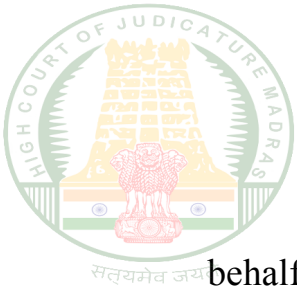
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connection for 15 days in a month. They have also mentioned in the petition that some persons have objected for the formation of the substation in the location because they are enjoying the land and earn by leasing it out and earned the money.”

6. Heard Mr.T.Murugamanickam, learned Standing Counsel appearing for the petitioner and Mr.P.Sathish, learned Additional Government Pleader appearing for the respondents 1 and 3.

7. It is the specific case of the petitioner that the subject property belongs to the petitioner Temple which is under the control of the HR & CE Department. This stand taken by the petitioner Temple is supported by the fourth respondent and in the counter-affidavit, the fourth respondent has clearly stated that the lands have been classified as Temple in the A-Register and that these lands belongs to the petitioner Temple and therefore, without obtaining the permission of the HR & CE Department, the first respondent could not have passed the impugned order and transferred the Temple lands to the second respondent.



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8. The learned Additional Government Pleader appearing on behalf of the first and third respondents and the learned Standing Counsel appearing on behalf of the fourth respondent submitted that the land in question has been categorized as a Sarkar Poromboke and there is only a remark in the A-Register as if it belongs to a Kovil. There is no intimation as to which Temple (Kovil) is the owner of the subject land. The land register that is maintained by the HR & CE Department was also relied upon and it was pointed that insofar as S.No.108/1, it only mentions that it belongs to the Thirukovil and there is no indication as to which Temple actually owns those lands. Hence it was contended that a wrong classification has been made by adding the name of the Kovil when actually the land in question is only a Sarkar Poromboke.

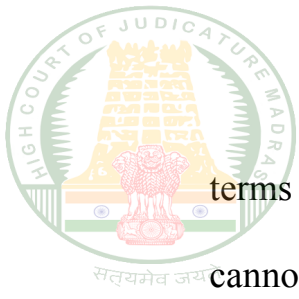
9. In the considered view of this court, if the land in question in S.No.108/1 is merely a Sarkar Poromboke, there was no need for the first respondent even to issue the impugned proceedings dated 22.07.2024. The first respondent could have straight away passed an order by allotting lands to the second respondent for establishing the sub-station. The fact that the first respondent conducted such procedures only shows that the authorities



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were aware of the fact that the land belongs to the Temple. It is true that neither in the A-Register nor in the property register maintained by the HR & CE Department, there is any specific reference to the name of the Temple insofar as S.No.108/1 is concerned. However, the fact remains that the HR & CE Department has now come up with a stand that the land belongs to the petitioner Temple. In order to get over the same, the first respondent has proceeded to issue the impugned order dated 22.07.2024 and this order was passed without even putting the petitioner Temple on notice.

10. To start with, the impugned proceedings of the first respondent dated 22.07.2024 is liable to be interfered with by this court for violation of the principles of natural justice since such order was passed without putting the petitioner Temple on notice and without affording any opportunity. Secondly, if the subject property in S.No.108/1 is categorized as a Temple Poromboke, the District Collector will not have the power to assign or transfer the land belonging to the Temple to any other Department. The law on this issue was discussed by the Division Bench of this Court in ***“The District Collector, Collectorate, Kancheepuram – 631 501 -vs- S.Guhan”*** reported in **(2022) 3 Law Weekly 948**. The Division Bench in no uncertain



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terms held that once the lands are categorized as a Temple Poromboke, it cannot be assigned or transferred without the proper permission obtained from the Commissioner of HR & CE Department as contemplated under Section 34 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959.

11. The crux of the issue before this court is as to whether the subject property in S.No.108/1 belongs to the petitioner Temple and if that is so, there is no question of utilizing the lands without the permission of the Commissioner of HR & CE Department. This right and title claimed by the petitioner Temple is disputed by the first respondent. If that is so, the minimum that is required for the first respondent is to issue notice to the petitioner Temple and hear them before passing the impugned order. If the sub-station has to be put up in the land belonging to the petitioner Temple, the first respondent could have resorted to the procedure of getting the permission of the Commissioner of HR & CE Department. Hence, it is not as if the land cannot be put up to use. What is required is to follow a proper procedure of getting the permission of the Commissioner of HR & CE Department before undertaking such an exercise of transferring the lands to



the second respondent for establishing the sub-station.

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12. In the light of the above discussion, the impugned proceedings of the first respondent made in ந.க.எண்.11799/2022/உ2 dated 22.07.2024 is hereby quashed. The first respondent is directed to issue notice to the petitioner Temple and also the HR & CE Department and conduct an enquiry and thereafter, proceed further strictly in accordance with law.

13. Accordingly, this writ petition is allowed in the above terms.

No costs.

28.02.2025

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Index : Yes

Speaking order

Neutral Citation : Yes

N. ANAND VENKATESH, J.

skr

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