

W.P.(MD)No.19323 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 01.04.2025

CORAM:

**THE HONOURABLE MRS. JUSTICE J. NISHA BANU
and
THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

W.P.(MD)No.19323 of 2024

T.D.Ganeshkumar,
Managing Trustee,
A/m.Kandiyamman Temple,
326, Palaniyandavar Nagar,
Pazhani-624 601.

... Petitioner

Vs.

- 1.The Commissioner,
Hindu Religious and Charitable Endowments,
Chennai.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Endowments,
Dindigul.
- 3.The Assistant Commissioner,
Hindu Religious and Charitable Endowments,
Chennai.
- 4.The Inspector,
Hindu Religious and Charitable Endowments
Department,
Arulmigu Kandyamman Temple,
Keeranur Town Panchayat, Palani Taluk,
Dindigul District.
- 5.The District Collector,
Dindigul.



W.P.(MD)No.19323 of 2024

6.The District Revenue Officer,
Dindigul.

7.The Executive Officer,
Keeranur Town Panchayat,
Palani Taluk, Dindigul District.

8.The President,
Keeranur Town Panchayat,
Palani Taluk, Dindigul District.

9.Assistant Director of Agriculture Department,
Dindigul Collectorate, Dindigul.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a ***Writ of Mandamus***, to direct the respondents 1 to 6 herein to take appropriate steps for restoration of the lands in S.No.148, Keeranur Village, Palani Taluk, Dindigul District, measuring an extent of 3.42.5 hectares to Arulmigu Kandyamman Temple, Keeranur Town, Palani Taluk, Dindigul District, by cancelling all the sub divisions made therein and by removing all the unauthorised constructions made by the respondents 7 to 9 by considering the petitioner's representation, dated 30.01.2024.

For Petitioner : Mr.V.R.Shanmuganathan

For Respondents : Mr.S.S.Madhavan
Additional Government Pleader



W.P.(MD)No.19323 of 2024

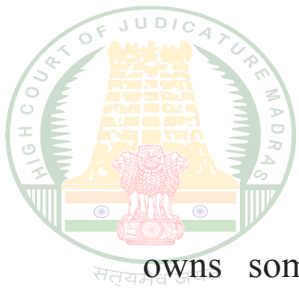
WEB COPY

ORDER

(Order of the Court was delivered by **S.SRIMATHY, J.**)

The present writ petition is filed for Writ of ***Mandamus***, to direct the respondents 1 to 6 herein to take appropriate steps for restoration of the lands in S.No.148, Keeranur Village, Palani Taluk, Dindigul District, measuring an extent of 3.42.5 hectares to Arulmigu Kandyamman Temple, Keeranur Town, Palani Taluk, Dindigul District, by cancelling all the sub divisions made therein and by removing all the unauthorised constructions made by the respondents 7 to 9 by considering the petitioner's representation, dated 30.01.2024.

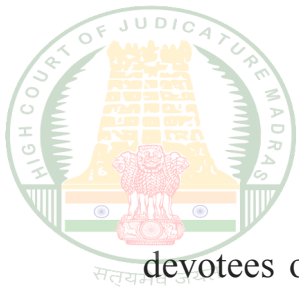
2.The brief facts as stated in the affidavit are that the petitioner is the Managing Trustee of the Arulmighu Kandyamman Temple, Keeranur Town which is a public temple has a history dating back 800 years. The temple was established during the Zamin period and the entire administration has been managed by the Kongu Vellala Gounder community, subsequently the scheme dated 17.09.1992 was framed in O.A.No.32 of 1990. As per the scheme, the temple is to be administered by the Kongu Vellala Gounder community, Bhavala Kulathavar and Kanakkar Kulathavars and they alone are entitled for administering the temple and they are to be elected by the aforesaid community as per scheme. The temple



W.P.(MD)No.19323 of 2024

WEB COPY

owns some lands and the income derived from these lands is used for administering the temple, which is evident from the Dindigul Anna District Gazette, published on 09.10.1992. The land in S.No.148, situated at Keeranur Village, Palani Taluk measuring about 3.42.5 hectares, originally belonged to the temple and all the revenue records, survey and resettlement documents stands in the name of the temple. The 8th respondent, who is the head of the Scheduled Community people and has no connection with the temple administration and its properties, attempted to usurp the property from the temple and at one point threatened the then temporary Trustee namely Kandimuthu Gounder and other trustees to give consent letter for the subdivision of the temple lands in S.No.148 and they had also without any authority had executed a consent letter for subdivision. Trustees don't have power to part with temple property and the same is void under Section 34 of HR & CE Act. However, it appears that the Revenue Divisional Officer, Palani, through his proceedings, dated 25.09.2007, subdivided the said temple land in S.No.148 into S.No.148/1 extending about 1.96 hectares and classified as Keeranur Town Panchayat Kalam and S.No.148/3 extending about 1.40 hectares and classified as Kandyamman Temple. Thus, S.No.148/1 has now been grabbed and stands encroached upon by the Keeranur Town Panchayat, which has built two government office buildings on that land illegally. In S.No. 148/3 measuring about 1.40 hectares classified as temple land, the trustees and



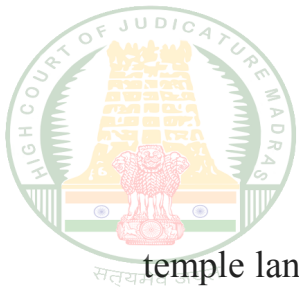
W.P.(MD)No.19323 of 2024

devotees of the temple have decided to construct an Annadhana Mandapam for the temple on that land. However, the respondents 8 and 9 and the Keeranur Town Panchayat officials objected and prevented them from constructing the Annadhana Mandapam. Hence, the temple administration trustee filed W.P.(MD)No.13854 of 2011 for Writ of Mandamus directing the respondents 1 and 2 to give police protection for construction based on the petitioner's representation dated 20.07.2011, which was allowed on 21.03.2012 and this Court has held as under:

"6. The petitioner is directed to obtain permission from the loc authority for the purpose of constructing the Annadhana Mandapam. In case, there is any objection for construction, even after obtaining the planning permission, it is open to him to approach the second respondent to give police protection for the purpose of construction. The police can be directed to give police protection only to protect an established right. There is nothing on record to show that the petitioner obtained permission from the Panchayat. In case, there is any such permission, necessarily, the police has to give assistance to complete the construction.

7. The writ petition is allowed as indicated above. No costs."

3. The petitioner submitted that they obtained building plan approval from the officials and with police protection, they constructed the said Annadhana Mandapam. In such circumstances, the respondents 7 to 9 and their men again started causing trouble for the temple administration and intended to grab the



W.P.(MD)No.19323 of 2024

WEB COPY

temple lands and are creating chaos, falsely spreading fake news to the public and are protesting against the temple. To protect the temple lands, they have decided to build a compound wall around the temple premises, including the Annadhana mandapam. Since the respondents 7 to 9 are causing trouble the petitioner has filed Crl.O.P for police protection. The lands measuring 3.42.5 hectares in S.No. 148 belong to the temple. By subdividing the same to 148/1, 148/2 and 148/3, the 7th respondent panchayat had grabbed the valuable lands of the temple. Though it is claimed that the then trustees of the temple have given consent for subdivision, such consent is ab initio void. The lands of the temple cannot be transferred to anyone including the 7th respondent panchayat by merely mutating the revenue records and by giving sub divisions. Though there is no direct alienation, the 7th respondent panchayat had cunningly and conveniently grabbed the lands of the temple and now have encroached the same and have put up construction therein in the form of Samudhayakoodam. The same is ab initio void in view of the provisions of Section 34 of the HR and CE act. Therefore, in the interest of justice, it becomes just the necessary that the lands in said survey number be restored in favour of the temple in its entirety and the constructions therein in the form of encroachments be removed. In this regard, the petitioner had given umpteen number of representations to respondents 1 to 6 and none of the representations were fruitful. The respondents 1 to 6 have failed in their



WEB COPY

mandatory duty. Their inaction is violative of Articles 14, 25 and 300A of Indian Constitution. The valuable lands of the temple have been grabbed by the 7th respondent panchayat under the guise of subdividing the lands of the temple. The lands in survey number 148 in its entirety needs to be restored to the temple by cancelling all the sub divisions made earlier and also by removing all the encroachments that were put up by the 7th respondent panchayat, i.e., Samoodhayakoodam and office premise and godown of Agriculture Department. Since none of their representations given by the petitioner to the respondents 1 to 6 have evoked any response, it is just and necessary that the respondents 1 to 6 be directed to hold an enquiry into the matter and the lands are restored back to the temple., within the time limit fixed by this Court. Otherwise, it would cause grave prejudice and irreparable hardship and heavy loss to the petitioner. Hence, the petitioner filed the present writ petition.

4. The 2nd respondent has filed a counter affidavit denying the averments made in the affidavit and stated that the temple is governed by Scheme dated 17.09.1992 framed under Section 64(1) of the TN HR&CE Act 22 of 1959 in O.A.No.32 of 1990 and as per the scheme the temple and its properties are to be administered by Kongu Vellala Gounder, Bhavala Kulathavar and Kanakkar Kulathavar community people and under the supervision of Tamil Nadu Hindu



W.P.(MD)No.19323 of 2024

WEB COPY

Religious and Charitable Endowments Department. The said temple own lands in various places which was also published in the Dindigul District Gazette published 09.10.1992. The land in S.No.148 at Keeranur Village belongs to the said temple and all the revenue records were issued in the name of the said temple. The 8th respondent on coercion got consent letter from the temporary trustee of the said temple for sub-dividing the said lands in S.No.148 and by placing reliance on the consent letter, said lands came to be sub-divided into S.No. 148/1 measuring an extent of 1.96 hectares and classified as Keeranur Town Panchayat Kalam and S.No.148/3 measuring 1.40 hectares and classified as Kandyamman Temple. Pursuant to the said sub-division in S.No.148/1, the Keeranur Town Panchayat had occupied the place by putting up two government offices. The devotees of said temple have decided to construct Annadhana Mandapam in the said lands and the same was objected by the respondents 8 and 9, hence the erstwhile trustees preferred W.P.(MD)No.13854 of 2011 and the said writ petition was allowed vide order dated 21.03.2012. Pursuant to the orders the temple administration has got necessary building plan approval for constructing Annadhana Mandapam. At this stage the temple alleged the respondents 7 to 9 had caused trouble in the administration of temple. It is the case of temple that the entire S.No.148 belongs to the said temple and by sub-dividing the same as Survey Nos.148/1, 148/2 and 148/3, the Keeranur Town Panchayat had grabbed



W.P.(MD)No.19323 of 2024

WEB COPY

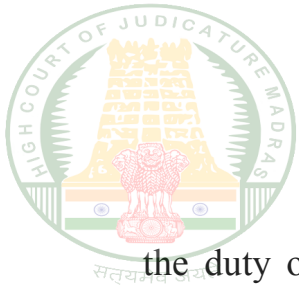
the valuable lands of the temple. The temple further contended that the temporary trustees do not have any power to part with temple lands, hence the said letter of the erstwhile trustees obtained under threat is ab initio void as per Section 34 of HR&CE Act, 1959, hence the present Managing Trustee has come up with the present writ petition praying for Mandamus to restore the said temple lands. The 2nd respondent further stated that as per property register maintained by the temple and re-survey and settlement register, the lands in S.No.148 measuring 3.42.5 hectares situated at Keeranur Village, Pazhani Taluk, Dindigul District, classified as Sarkar Poramboke-Kovil. Subsequently, in UDR the said lands were classified as Kovil, Kalam and the erstwhile trustee of the said temple seems to have made application seeking to sub-divide the temple lands in the year 2000 and the said request was duly considered by the revenue officials and sub-divided the said lands as Survey.No.148/1 measuring 8.36 Acres as temple land and Survey No. 148/2 measuring 0.16 cents as Arasu Punjai. Later in the year 2007, the then Revenue Divisional Officer, Palani, without even verifying the earlier revenue records and usage of lands, simply by taking note of resolution passed by the Keeranur Town Panchayat has erroneously sub-divided the lands in Survey.No. 148/1 as Survey.No.148/1 measuring 1.96.0 hectares as Kalam and Survey.No. 148/3 measuring 1.40.0 hectares as Kandiyamman Kovil. The Revenue Divisional Officer, Palani, failed to take note of the fact that Kalam is small part



W.P.(MD)No.19323 of 2024

WEB COPY

of land used for harvesting process which would be small space, but in contrary to the same, huge extent was sub-divided and classified as Kalam by the Revenue Divisional Officer, Palani, that too without taking note of the fact that earlier when the lands in Survey. No.148 were sub-divided, Kalam measuring 0.16 cents of lands were sub-divided as Survey No.148/2. When already Kalam was sub-divided from the temple lands, question of sub-dividing the already sub-divided lands once again does not even arise. It is seen from the records that resolution have been passed by the Keeranur Panchayat only based on letter given by the erstwhile temporary trustee of the said temple. Trustee of the said temple do not have any power to part with temple lands as per Section 34 of HR&CE Act. Now, the present Managing Trustee of the said temple has taken steps for restoring the said lands as per circulars issued by the Commissioner of HR&CE Department and as per the directions issued by this Court. Admittedly, the lands in question are belonging to Arulmighu Kandyamman Temple, Keeranur Town, Palani Taluk, Dindigul District, even as per revenue records maintained before 2000 but the same was changed by the revenue officials without any valid reasons and the same should be restored and the temple lands should be protected. The said temple is depending only on the income derived from the said lands for its day-to-day administration. The Hon'ble Apex Court in the case of ***A.A.Gopalakrishnan Vs. Cochin Devaswom Board and others*** reported in ***2007 (7) SCC 482*** held that it is



W.P.(MD)No.19323 of 2024

the duty of the Courts to protect and safeguard the properties of religious and charitable institutions from wrongful claims or misappropriation by exercising parent patriae jurisdiction. It is the duty of elected trustees to protect the temple lands and therefore, the present temple administration has taken steps for restoring the temple lands. The 2nd respondent further submitted that appropriate directions may be issued to the respondents 5 and 6 for restoring the patta in the name of the temple.

7. After hearing the rival submissions, this Court had given its anxious consideration. The primary contention of the petitioner, the Managing Trustee of the temple is that the President of Keeranur Town Panchayat, the 8th respondent herein has no power to change the classification any land. It is seen that the temple is having several lands and one such land is situated in S.No.148, Keeranur Village, Palani Taluk admeasuring 3.42.5 hectares. The President Keeranur Town Panchayat by passing resolution in the Panchayat Council has subdivided the temple land into three, S.No.148/1 extending 1.96 hectares and classified as Keeranur Town Panchayat Kalam, S.No.148/2 extending 0.16 cents as Arasu Punjai and S.No.148/3 extending 1.40 hectares and classified as Kandyamman Temple. It is settled proposition of law that only the government has power and authority to change the classification of land. However, even



W.P.(MD)No.19323 of 2024

government is not having power to change the classification of land if the land belongs to temple. In such circumstances, it is not known under what authority and power the President of Keeranur Town Panchayat had passed resolution to change the classification of the land belongs to the temple.

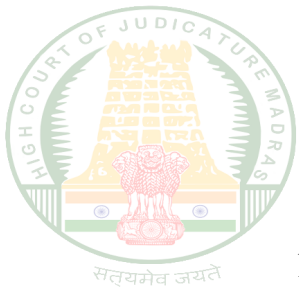
8. The Learned Additional Government Pleader appearing for the respondents submitted that one of the erstwhile trustees had given consent letter for the subdivision of the temple lands in S.No.148 and based on the same the said resolution was passed. But the Learned Counsel appearing for the petitioner submitted that the said erstwhile trustee was threatened and coerced to give consent letter, moreover the said trustee was appointment “temporarily”, hence the said consent cannot be acted on. It is seen that the contention that the temporary trustee was threatened and coerced is admitted by the Joint Commissioner of HR&CE in his counter. Further, it settled proposition that any person holding “temporary post” cannot take any decisions, especially any major decisions which would affect the rights of the institutions or parties. In the present case, it is an admitted fact that the erstwhile trustee was holding the “temporary trustee post”, in such circumstances, the said trustee was not having any power to give consent letter at all. If given such consent letter, then the same is an illegal consent letter. Based on the illegal consent letter, the President Keeranur Town Panchayat had



W.P.(MD)No.19323 of 2024

classified the lands belonging to the temple, hence the said classification also becomes illegal.

9. The petitioner submitted that there is no direct alienation but the 7th respondent panchayat had cunningly and conveniently grabbed the lands of the temple, encroached and had put up construction of Samudhayakoodam and office premise and godown of Agriculture Department. The said act is ab initio void as it is against the provisions of Section 34 of the HR&CE Act. The valuable lands of the temple have been grabbed by the 7th respondent panchayat under the guise of subdividing the lands of the temple, hence prayed to restore the entire S.No.148 admeasuring 3.42.5 hectares by cancelling all the sub divisions and also remove the encroachments that were put up by the 7th respondent panchayat, i.e., Samoodhayakoodam and office premise and godown of Agriculture Department. This Court is of the considered opinion that the Panchayat President had changed the classification of land without any power and authority and thereby usurped the land and had put up construction. Therefore, the Panchayat ought to demolish construction. Instead of demolition if the parties are directed to pay rent and arrears, the same may meet the ends of justice.



W.P.(MD)No.19323 of 2024

WEB COPY

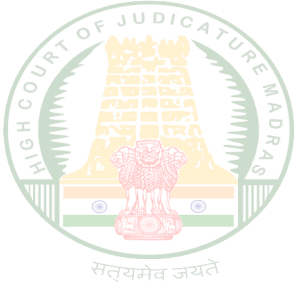
10. For the reasons stated supra the following orders are passed:

(i) The Revenue Divisional Officer is directed to cancel all the sub divisions namely S.No.148/1, S.No.148/2 and S.No.148/3 and to restore and keep the entire survey number as S.No.148 admeasuring 3.42.5 hectares in the name of the temple. Also to make consequential changes in all records including village records.

(ii) The Panchayat is directed to pay the rent to the temple and also shall pay the arrears of rent from the date of construction Samoodhayakoodam.

(iii) Likewise, the Agriculture Department shall pay rent to temple and also shall pay the arrears of rent from the date of occupying the said construction.

(iv) The Joint Commissioner of HR&CE shall issue notice, call for objections, thereafter fix rent as per law.



W.P.(MD)No.19323 of 2024

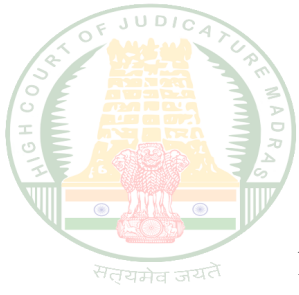
WEB COPY

(v) However, if the Samoodhayakoodam and Agriculture Department are intending to vacate said land, they are allowed to do so after paying the arrears of rent for occupying the land all these years. In such event of vacating the land, if they intend to recovery the cost of construction, the Samoodhayakoodam and Agriculture Department are at liberty to approach the Civil Court.

(vi) The President of Keeranur Town Panchayat is directed to pay Rs.10,000/- as cost for passing illegal resolution.

(vii) The District Collector, Dindigul is directed to take action against the person who was holding the post as President of Keeranur Town Panchayat during the relevant point of time.

(viii) The above directions shall be complied within a period of eight weeks from the date of receipt of the copy of the order.



W.P.(MD)No.19323 of 2024

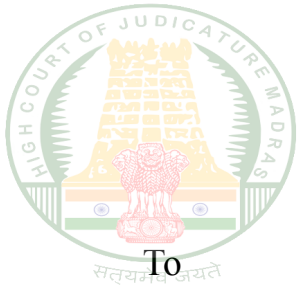
11. With the above said observations and directions, the writ petition is

allowed. No costs.

[J.N.B., J.] [S.S.Y., J.]
01.04.2025

Index : Yes / No

Tmg



W.P.(MD)No.19323 of 2024

To

- 1.The Commissioner,
Hindu Religious and Charitable Endowments,
Chennai.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Endowments,
Dindigul.
- 3.The Assistant Commissioner,
Hindu Religious and Charitable Endowments,
Chennai.
- 4.The Inspector,
Hindu Religious and Charitable Endowments
Department,
Arulmigu Kandyamman Temple,
Keeranur Town Panchayat, Palani Taluk,
Dindigul District.
- 5.The District Collector,
Dindigul.
- 6.The District Revenue Officer,
Dindigul.
- 7.The Executive Officer,
Keeranur Town Panchayat,
Palani Taluk, Dindigul District.
- 8.The President,
Keeranur Town Panchayat,
Palani Taluk, Dindigul District.
- 9.Assistant Director of Agriculture Department,
Dindigul Collectorate, Dindigul.



WEB COPY



W.P.(MD)No.19323 of 2024

J.NISHA BANU, J.

and

S.SRIMATHY, J.

Tmg

W.P.(MD)No.19323 of 2024

01.04.2025