

Ravi Kumar V. vs Travancore Devaswom Board

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Court : Kerala

Decided On : Oct-10-2022

Judge : Honourable Mr. Justice Anil K.Narendran, Honourable Mr. Justice P.G. Ajithkumar

Appeal No. : WP(C)/29656/2014

Appellant : Ravi Kumar V.

Respondent : Travancore Devaswom Board

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN & THE HONOURABLE MR.JUSTICE P.G. AJITHKUMAR MONDAY, THE 10TH DAY OF OCTOBER 2022 / 18TH ASWINA, 1944 W.P.(C) NO. 29656 OF 2014 PETITIONER: RAVI KUMAR V. AGED 48 YEARS PATTAVEETIL, VALIYAKULANGARA, OACHIRA P.O., GENERAL SECRETARY, HINDU AIKYAVEDI TALUK SAMITHI, KARUNAGAPPALLY, KOLLAM. BY ADVS. SAJITH KUMAR V. (AS PER COURT ORDER) J.VISHNU VIVEK A.V. GODWIN JOSEPH PRANAV PRADEEP RESPONDENTS: 1 TRAVANCORE DEVASWOM BOARD REPRESENTED BY ITS SECRETARY, DEVASWOM BOARD OFFICE,

THIRUVANANTHAPURAM-695001. 2 DEVASWOM COMMISSIONER TRAVANCORE DEVASWOM BOARD, DEVASWOM COMMISSION OFFICE, THIRUVANANTHAPURAM-695001. 3 ASSISTANT DEVASWOM COMMISSIONER TRAVANCORE DEVASWOM BOARD, ASSISTANT DEVASWOM COMMISSIONER OFFICE, KARUNAGAPPALLY, KOLLAM-690518.

4 SUB GROUP OFFICER TRAVANCORE DEVASWOM BOARD, SUB GROUP OFFICER'S OFFICE, OACHIRA, KARUNAGAPPALLY, KOLLAM-690526. 5 DISTRICT COLLECTOR COLLECTORATE, KOLLAM-691013. 6 TALUK OFFICE TALUK OFFICE, KARUNAGAPPALLY, KOLLAM-690518. 7 VILLAGE OFFICER OACHIRA VILLAGE OFFICE, OACHIRA, KARUNAGAPPALLY, KOLLAM-690526. 8 SRI.SHIHABUDHEEN MAMOOTTIL SAJILA MANZIL, PAYYIKUZHI, OACHIRA, KARUNAGAPPALLY, KOLLAM-690526. 9 OACHIRA GRAMA PANCHAYATH REPRESENTED BY ITS SECRETARY, OACHIRA GRAMA PANCHAYATH, OACHIRA, KARUNAGAPPALLY, KOLLAM-690526. BY ADVS. R1-R4 by SRI G.SANTHOSH KUMAR, STANDING COUNSEL, TRAVANCORE DEVASWOM BOARD R5-R7 BY SRI.S.RAJ MOHAN, SR.GOVERNMENT PLEADER R8 by SRI.P.SANTHOSH KUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR FINAL HEARING ON 10.10.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Ajithkumar, J.

The petitioner approached this Court by filing this Writ Petition under Article 226 of the Constitution of India alleging that the property belonging to Oachira Mahalakshmi Temple is being trespassed upon by strangers and misused for other purposes, including commercial activities. It is stated that the 8 th respondent trespassed upon a portion of the Temple property and constructed a

structure there. The petitioner could gather the details and nature of the trespass from the information received from the 6th respondent-Taluk Officer under the Right to Information Act, 2005, which is produced as Ext.P7. It revealed that a portion of the Temple property has been described as Puramboke land. In the said circumstances, the petitioner has filed this Writ Petition seeking the following reliefs:

i) To call for the records leading to Exhibit P7 and all the further proceedings thereon and quash the same by issuing a writ in the nature of certiorari or any other appropriate writ direction or order; ii) To issue a writ in the nature of mandamus or any other appropriate writ, direction or order directing respondents 1 to 7 to measure and locate 1.25 Acres of property in Old Survey No. 10738 of Oachira Village

(formerly Krishnapuram village) of the Oachira Mahalakshmi Temple (Oachira Mayayakshi Temple) and make appropriate corrections in the revenue and Devaswom records for restoring the property of the Devaswom and remove all the constructions around the banyan tree situated on the east of the temple; iii) To issue a writ in the nature of mandamus or any other appropriate writ, direction or order directing respondents 1 to 4 to take appropriate measures for constituting the Temple Advisory Committee for the Oachira Mahalakshmi Temple within a time frame fixed by this Hon'ble Court.

2. When this matter came up for consideration on

14.11.2014, this Court observed that there should be a direction to the Land Officer of the 1st respondent-Travancore Devaswom Board to measure out the property with reference to the records maintained by the Temple. Accordingly, the following directions were issued: 3. There will be a further direction to the Special Land Officer, Travancore Devaswom Board to conduct survey and measurement of the property with notice to the Tahsildar, 6th respondent, respondent Nos.3, 4 & 7 as well as to the petitioner within a period of three weeks and file a report.

4. Learned counsel for the petitioner press for a

direction to the 8th respondent not to conduct any business till orders are passed by this Court. Even though notice has been served by special messenger there is no appearance for the 8th respondent. Therefore, there will be a direction to the 8th respondent not to start any business activity in the plot in question until further orders.

3. Pursuant to that direction, survey operations were

done. A counter affidavit on behalf of respondents 1 to 4 was placed on record by the Secretary of the Travancore Devaswom Board. The report of the Land Special Officer along with the survey sketch and other records were also placed on record.

4. On 22.08.2022, it was reported that the learned

counsel for the petitioner expired. Therefore, notice was sent to the petitioner intimating him the date of posting of the petition and the necessity to engage another counsel. Accordingly, Advocate K.Subash Chandra Bose entered appearance for the petitioner. When this matter is taken up for consideration today, there was no representation for the petitioner. Although notice was served, the 8th respondent did not choose to enter appearance.

5. Heard the learned Standing Counsel for the Travancore Devaswom Board and the learned Senior Government Pleader.

6. The specific stand taken by respondents 1 to 4 in the

counter affidavit is that there has been trespass on the property of Oachira Mahalakshmi Temple and the lost property has to be recovered by resorting to the provisions of the Kerala Land Conservancy Act, 1957. In the light of Section 27 of the Travancore-Cochin Hindu Religious Institutions Act, 1959 it is for the Travancore Devaswom Board to take necessary action for recovery of the property of the Temple, possession of which has been lost. In such circumstances, the 1st respondent is directed to take necessary action in the matter of recovery of the property of Oachira Mahalakshmi Temple, which has been found trespassed upon.

The Writ Petition is disposed of accordingly. The order of this Court dated 14.11.2014 directing the 8th respondent not to do any activity in the property in question is made absolute. Sd/- ANIL K. NARENDRAN, JUDGE Sd/- P.G. AJITHKUMAR, JUDGE dkr APPENDIX OF WP(C) 29656/2014 PETITIONER EXHIBITS

EXHIBIT-P1

TRUE COPY OF THE SETTLEMENT REGISTER.EXHIBIT

THE DISTRICT COLLECTOR, KOLLAM. EXHIBIT-P4 TRUE COPY OF THE NOTICE RECEIVED BY THE PETITIONER. EXHIBIT-P5 TRUE COPY OF THE REPRESENTATION SUBMITTED BEFORE THE ASSISTANT DEVASWOM COMMISSIONER. EXHIBIT-P6 TRUE COPY OF THE LETTER SUBMITTED UNDER THE RIGHT TO INFORMATION ACT. EXHIBIT-P7 TRUE COPY OF THE PROCEEDINGS OF THE 6TH RESPONDENT TALUK OFFICER DATED 02.04.2014. EXHIBIT-P8 TRUE COPY OF THE ANSWER (REPLY DATED 23.07.2014) RECEIVED FROM THE OFFICE OF THE KARUNAGAPPALLY TALUK IN ANSWER TO EXT.P6 LETTER. EXHIBIT-P9 PHOTOGRAPHS SHOWING THE SHED UNDER CONSTRUCTION INCLUDING THE BANIYAN TREE. RESPONDENT EXHIBITS EXHIBIT-R1(A) TRUE COPY OF THE REPORT AND SKETCH SUBMITTED BY THE LAND SPECIAL OFFICER OF THE TRAVANCORE DEVASWOM BOARD.

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