

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 16-04-2015

CORAM:

THE HONOURABLE MR. JUSTICE SATISH K. AGNIHOTRI
AND
THE HONOURABLE MR. JUSTICE M. VENUGOPAL

Writ Petition No.31619 of 2014
and M.P.No.1 of 2014

- 1 Mr.Madhusudhanan
S/o.Mr.M.K.Ananhakrishna Bhattachariyar No.
2/60 Perumal Koil Street Madambakkam
SriperumbudurTaluk Kanchipuram District Petitioner
- Vs
- 1 The Commissioner
The Hindu Religious Charitable Endowments
Department No.119 Uthamar Gandhi Salai
Nungambakkam Chennai 34
- 2 The Joint Commissioner
The Hindu Religious Charitable Endowments
Department Kanchipuram KanchipuramDistrict
- 3 The Inspector of Police
Guduvancherry Police Station
Kancheepuram District
- 4 Mrs.Chitra Sridharan
W/o.Mr.Sridharan Bhattachariyar No.2/60
Perumal Koil Street Madambakkam
Sriperumbudr Taluk Kancheepuram District
- 5 Mrs.Sasikala Suresh
W/o.Mr.Suresh Madambakkam Panchayat
President Madambakkam Main Road Nisha
Nagar Madambakkam Sriperumbudur Tk
Kancheepuram District Respondents

Writ Petition filed under Article 226 of the Constitution of India
praying for a writ of mandamus directing the respondents 1 to 3 to
consider the petitioners representation dated 19.11.2014 given to the
respondents 1 to 3 to stop the illegal encroachment and construction
made in the Arulmighu Sri Lakshminarayanamasamy Perumal Koil temple
property situated at S.No.109/1 measuring to an extent of Acre 0.75

cents comprised in Patta No.1 at Madambakkam Village Sriperumbudr Taluk Kancheepuram District and to direct the respondents 1 to 3 to remove the encroachment made in the said temple property situated at S.No.109/1 measuring to an extent of Acre 0.75 cents comprised in Patta No.1 at Madambakkam Village Sriperumbudur Taluk Kancheepuram District

For petitioner :: Mr. P. Balamurugan
For respondents :: Mr. P.S.Shivashanmugha Sundaram,
 Spl.G.P. for RR1 and 2
 Mr. N. Sakthivel, GA for R3
 Mr. D. Madhusudanam for R4
 Mr. AR.L. Sundaresan, SC
 for Mr.R. Govindasamy for R5

ORDER

(Order of the Court was delivered by SATISH K. AGNIHOTRI,J.)

The only limited prayer sought for in this petition is a direction to the respondent Nos. 1 to 3 to consider the petitioner's representation dated 19-11-2014, addressed to the respondent Nos. 1 to 3 to stop the illegal encroachment and construction made in the Arulmighu Sri Lakshminarayanamsamy Perumal Koil temple property situated at S.No.109/1 measuring to an extent of Acre 0.75 cents comprised in Patta No.1 at Madambakkam Village, Sriperumbudur Taluk, Kancheepuram District and to direct the respondents 1 to 3 to remove the encroachment made in the said temple property situated at S.No.109/1 measuring to an extent of Acre 0.75 cents comprised in Patta No.1 at Madambakkam Village, Sriperumbudur Taluk, Kancheepuram District.

2. Pursuant to our notice dated 04-12-2014, the third respondent representing the first and second respondents has filed a counter affidavit stating therein that the property in question belongs to the religious institution and no construction may be carried out without proper permission. It is further stated that the respondents will act in accordance with Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowment Act (for short 'the Act') in respect of the said property. Section 78 of the Act enables the authorities under the Act to take necessary action for removal of the encroachment as well as unauthorized construction.

3. In view of that, without expressing any opinion on merits of the case, we direct the official respondent Nos.1 to 3 to initiate action under provisions of Section 78 of the Act and take necessary enforcement action in accordance with law and on merits, as early as possible, preferably, within a period of six weeks from the date of receipt of a copy of this order. Needless to state that an opportunity of hearing is required to be afforded to the alleged encroachers before taking any action for removal of encroachment.

4. The writ petition is disposed of, accordingly. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

glp
To

- 1 The Commissioner
The Hindu Religious Charitable Endowments
Department No.119 Uthamar Gandhi Salai
Nungambakkam Chennai 34
 - 2 The Joint Commissioner
The Hindu Religious Charitable Endowments
Department Kanchipuram KanchipuramDistrict
 - 3 The Inspector of Police
Guduvancherry Police Station
Kancheepuram District.
- 2 cc to Government Pleader, Sr.No20830, 21058

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pmk.29.4.2015

सत्यमेव जयते

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