

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 12.06.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.16745 of 2015

R.Guruvammal

... Petitioner

Versus

1. The Commissioner
Hindu Religious & Charitable
Endowment Department
Nungambakkam, Chennai 600 034.
2. The Joint Commissioner
HR&CE, Nungambakkam,
Chennai 600 034.
3. The Executive Officer
Office at Arulmighu Kamatchi Amman
Temple, M.C.Road, Old Washermenpet
Chennai 600 021.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of mandamus forbearing the respondents from evicting the petitioner from D.No.14, 2nd Land, Singara Garden, Old Washermenpet, Chennai 600 021 unless due process of law and after giving adequate opportunity to the petitioner.

For Petitioner : Mr.D.Rajagopal

For RR 1 to 3 : Mr.M.L.Mahendran
Government Advocate [HR&CE]

WEB COPY
O R D E R

By consent, the writ petition is taken up for final disposal.

2.The petitioner would admit that the 3rd respondent is the absolute owner of the site admeasuring to an extent of 441 sq.ft. at No.14, 2nd lane, Singara Garden, Old Washermenpet, Chennai 21. There existed an very old dilapidated building aged more than 75 years old and the petitioner's predecessors in title were inducted

as tenants under the said temple and by way of succession, the petitioner is in possession and enjoyment of the property along with her family members. The petitioner would state that in the year 2010, the existing building became old and dilapidated and she applied for necessary permission to put up a new superstructure and such a permission was also granted by the 1st respondent vide proceedings in Na.Ka.No.9311/2010/R2-1 dated 12.03.2010. The petitioner, in pursuant to the permission, has obtained necessary sanction and permission and had put up a superstructure and also regularly paying monthly rent to the temple.

3.The grievance expressed by the petitioner is that, all of a sudden, the 3rd respondent has issued the impugned notice dated 01.06.2015 by invoking section 78 of the Hindu Religious and Charitable Endowment Act and calling upon the petitioner to vacate and deliver possession of the premises on the pretext that the said premises is required for the benefit of the temple. Aggrieved of the same, the petitioner has filed this writ petition.

4.Mr.D.Rajagopal, learned counsel for the petitioner would contend that in the facts and circumstances, it is not open to the 3rd respondent to invoke section 78 of the said Act and would further contend, having granted permission to the petitioner to put up a new superstructure during the year 2010 and the petitioner by spending considerable amount, has also put up a superstructure and is regularly paying the rent, it is not open to the 3rd respondent to call upon the petitioner to vacate the premises all of a sudden and prays for interference.

5.Per contra, Mr.M.L.Mahendran, learned Government Advocate who accepts notice on behalf of the respondents, would submit that the petitioner has also executed an affidavit of undertaking stating that as and when the temple requires the premises, she will hand over the same and in the light of the said undertaking, it is not open to the petitioner to contend otherwise and prays for dismissal of the writ petition.

6.This Court, after considering the rival submissions, is disposing of the writ petition by permitting the petitioner to submit her representation by enclosing necessary documents to the 3rd respondent, within a period of two weeks from the date of receipt of a copy of this order to the 3rd respondent and the 3rd respondent, after receipt of the said representation, give an opportunity of personal hearing to the petitioner and pass orders in accordance with law within a further period of four weeks thereafter and till then, the respondents shall defer further action in terms of the impugned notice dated 01.06.2015.

7.The writ petition is disposed of accordingly. No costs.
Consequently the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

AP

To

1. The Commissioner
Hindu Religious & Charitable
Endowment Department
Nungambakkam, Chennai 600 034.
2. The Joint Commissioner
HR&CE, Nungambakkam,
Chennai 600 034.
3. The Executive Officer
Office at Arulmighu Kamatchi Amman
Temple, M.C.Road, Old Washermenpet
Chennai 600 021.

+1cc to Mr.D.Rajagopal, Advocate, S.R.No.28711

+1cc to the Special Government Pleader(HR & CE), S.R.No.28894

W.P.No.16745 of 2015

EV(CO)
CA(02/07/2015)

सत्यमेव जयते

WEB COPY