

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2015

CORAM

THE HON'BLE Mr. JUSTICE SATISH K.AGNIHOTRI
and
THE HON'BLE Dr. JUSTICE P.DEVADASS

W.P.No.33891 of 2015
and
M.P.No.1 of 2015

A/M.Sri Balasubramania Swamy Koil
rep. by its Managing Trustee D.Mahalingam

..Petitioner

Vs.

1.The President,
Rettanai Village Panchayat,
Rettanai Post,
Myilam Panchayat Union,
Tindivanam Taluk,
Villupuram District - 604 306.

2.The Tahsildar,
Tindivanam Taluk Office,
Tindivanam, Villupuram District,
Post Code - 604 001.

3.The District Collector,
Collector Office, Villupuram,
Villupuram District,
Post Code - 605 602.

.. Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus calling upon the proceedings of the first respondent dated 10.09.2015 under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 for vacating the premises from Rettanai Village, comprised in Survey No.111/2, admeasuring an extent of hectare 0.55.0 and 0.01.0 ares land with shop buildings and quash the same as illegal and consequently direct the respondents 1 to 3 not to disturb the peaceful possession and enjoyment of the petitioner temple.

For Petitioner .. Mr.C.Nithysh Sekhar
For Respondents .. Ms.M.E.Rani Selvam,
Addl. Govt. Pleader for R1
Mr.P.S.Sivashanmugha Sundaram,
Spl. Govt. Pleader for R2 & R3

ORDER

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

In this writ petition, the petitioner impugns the correctness of the notice dated 10 September 2015 issued under Section 6 of the Tamil Nadu Land Encroachment Act, 1905.

2.The learned counsel appearing for the petitioner submits that the notice is without jurisdiction and also contrary to the judgment and decree dated 21 July 2011 passed in O.S.No.587 of 2004. Thus, this writ petition is maintainable as the order/notice was issued without jurisdiction and also without affording an opportunity of hearing to the petitioner. Be that as it may, the notice issued under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, is appealable under Section 10 of the Act and as such, there is no reason to entertain the writ petition at this stage. It is open to the petitioner to raise all the objections as aforesaid and also other objections available to the petitioner before the appellate authority.

3.In that view of the matter, we dismiss the writ petition as not maintainable, reserving liberty to the petitioner to prefer statutory appeal, if so advised. Thus, interim stay granted on 20 October 2015 shall continue for a period of two weeks to enable the petitioner to prefer appeal, if so advised. No costs. Consequently, connected miscellaneous petition is closed.

sd/-

ASSISTANT REGISTRAR(CS-IV)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

mmi

To

1.The President,
Rettanai Village Panchayat,
Rettanai Post,
Myilam Panchayat Union,
Tindivanam Taluk,
Villupuram District - 604 306.

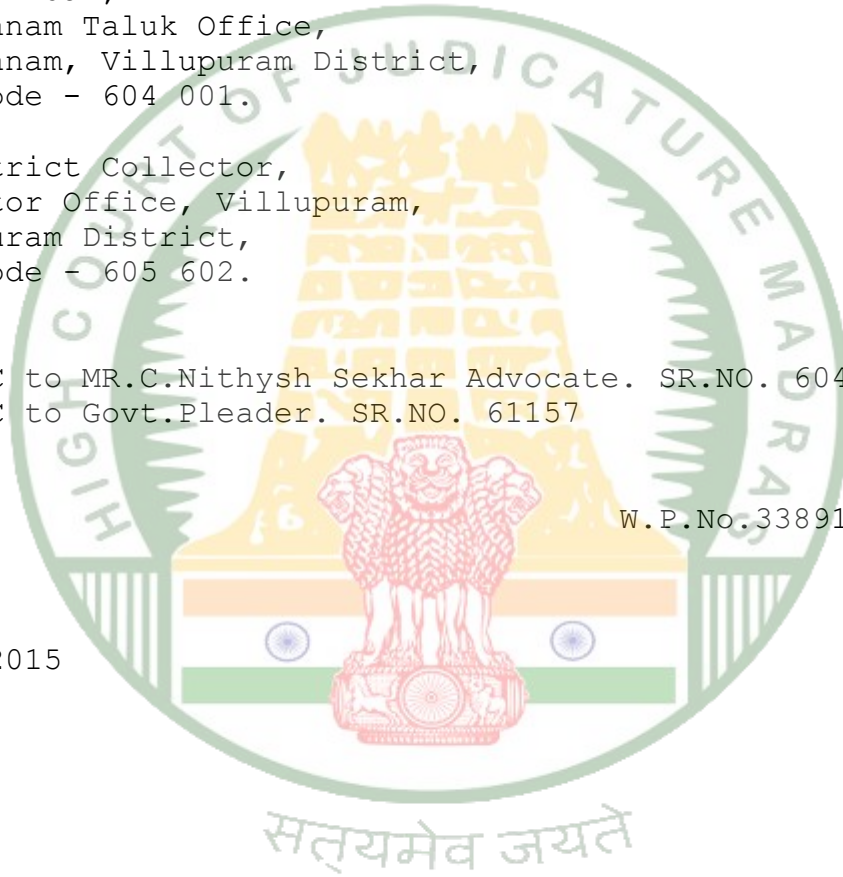
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3.The District Collector,
Collector Office, Villupuram,
Villupuram District,
Post Code - 605 602.

+1 CC to MR.C.Nithysh Sekhar Advocate. SR.NO. 60408
+1 CC to Govt.Pleader. SR.NO. 61157

W.P.No.33891 of 2015

AR-IV
JD 18/11/2015



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