

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.35003 of 2015

and

M.P.No.1 of 2015

Kamala Ganapathi Subramaniam

...Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable
Endowment Department
Nungambakkam,
Madras-600 034

2.The Assistant Commissioner,
Hindu Religious and Charitable
Endowment Department,
Kancheepuram

3.The Executive Officer,
Arulmighu Egambaranathar Thirukovil,
Kancheepuram-631 502

... Respondents

This petition is filed under Article 226 of The Constitution of India praying to issue a writ of certiorari to call for the records pertaining to the notice/order of the 2nd respondent dated 22.10.2015 and quash the same as illegal, incompetent and ultravires.

For Petitioner : Mr.R.Jayaprakash

For Respondents : Mr.K.V.Dhanapalan,A.G.P.

ORDER

Heard Mr.R.Jayaprakash, the learned counsel for the petitioner and Mr.K.V.Dhanapalan, learned Additional Government Pleader, who accepts notice on behalf of the respondents and with the consent of either side, the writ petition itself is taken up for final disposal at the admission stage.

2. The petitioner challenges the notice issued by the second respondent dated 22.10.2015. By the impugned notice, the petitioner is warned that the land in her possession will be taken on the ground that she has failed to fulfill certain religious duties to be performed to the temple. The petitioner challenges the impugned proceedings on the ground that there is

a total violation of principles of natural justice and there cannot be a threat to dispossess the land and in any event, the religious duties to be performed have been clearly circumscribed in the Will executed by Kaniyur Krishnaiyer, dated 12.5.1894. Thus, the primary grievance of the petitioner is that she was not afforded an opportunity to put forth her case and the second respondent has straight away threatened to dispossess the petitioner.

3. In the light of the above, this Court is convinced that the petitioner should be afforded an opportunity to put forth her case and to demonstrate as to why she can continue to remain in possession of the property. Accordingly, instead of setting aside the impugned proceedings, the petitioner is directed to treat the impugned proceedings as a show cause notice, submit her explanation within a period of 15 days from the date of receipt of a copy of this order and on receipt of the reply/explanation, the second respondent shall conduct an enquiry into the matter, afford an opportunity of personal hearing to the petitioner and pass a reasoned order on merits and in accordance with law within a period of four weeks from the date of conclusion of the personal hearing.

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

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

msk

To

- 1.The Commissioner,
Hindu Religious and Charitable
Endowment Department
Nungambakkam,
Madras-600 034
 - 2.The Assistant Commissioner,
Hindu Religious and Charitable
Endowment Department,
Kancheepuram
 - 3.The Executive Officer,
Arulmighu Egambaranathar Thirukovil,
Kancheepuram-631 502
- +1 cc to Mr.R.Jayaprakash, Advocate, sr.60018
+1 cc to Government Pleader, sr.59920

msm co, kra 06/11/2015

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