



WEB COPY

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.09.2015

CORAM :

THE HONOURABLE MR.JUSTICE R.SUDHAKAR
and
THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Writ Petition (MD) No.16272 of 2015

T.Ramachandran

... Petitioner

Vs.

1.The District Collector,
Thanjavur District,
Thanjavur.

2.The Joint Commissioner,
Hindu Religious & Endowment Commission,
Memapalam,
Thanjavur District.

3.The Assistant Commissioner,
Hindu Religious & Endowment Commission,
Palace Devasthanam,
Thanjavur Town,
Thanjavur.

4.The Commissioner,
Thanjavur Municipal Corporation,
Thanjavur.

5.The Hereditary Trustee,
Palace Devasthanam,
Thanjavur.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records relating to the impugned proceeding in R.C.No.7963/2015/C2 dated 17.08.2015 passed by the 2nd respondent and quash the same as illegal.

For Petitioner : Mr.A.Arun Prasad

For Respondents 1,2&4 : Mr.A.K.Baskarapandian,
Special Government Pleader.

For Respondents 3 &5 : Mr.V.Chandrasekar



ORDER

(Order of the Court was made by R.SUDHAKAR,J.)

Challenging the show cause notice issued by the Joint Commissioner, the second respondent herein dated 17.08.2015, the present writ petition has been filed.

2.We have perused the show cause notice issued by the Joint Commissioner which reads as follows:

"Notice under Section 78(2) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 before the Joint Commissioner, Hindu Religious and Charitable Endowments Department, Thanjavur.

R.C.No.7963/2015/C.2/dt.17.08.2015

Subject: Encroachment - Temple Land - Arulmigu Poomalaivaithiyanathasamy Temple attached to Palace Devasthanam Thanjavur Town, Taluk and District Removal of encroachment - reg.

To - Thiru T.Ramachandran,
S/o.Thangavelpillai,
3172P, Poomal Rawthan Koil St.,
East Gate, Thanjavur Town

Whereas I have reason to believe that the encroachment over the land described below and belonging to Arulmigu Poomalaivaithiyanathasamy Temple attached to Palace Devasthanam Thanjavur Town, Taluk and District caused on account of encroachment should be removed.

Take notice that if you have any cause to show why the said encroachment should not be removed, you should appear in person or by counsel duly instructed with proof, in this Court on 10.09.2015 at 11.30 a.m when the aforesaid matter will be heard. Failing which the matter will be heard and disposed of ex-parte and it will be presumed that you consent to the removal of the said encroachment.

Given under my hand and the seal of the Court, this day of August 2015.

Sd.C.A.Kumaradurai,
Joint Commissioner."

3.The allegation of predetermined show cause notice on the face of it, does not appear to us as correct. The plea of prejudice consequent to the petitioner getting particulars under Right to Information Act also does not appear to be justified because here is a case of notice for removal of encroachment that is based on the report of the Assistant Commissioner, dated 26.02.2015.

4.Learned counsel for the petitioner would try to make a plea that the notice is defective on account of non compliance of the requirement under Section 78(1) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959.

5.The said allegation is dispelled by the learned counsel for the respondents 3 and 5 stating that the report of the Assistant



Commissioner dated 26.02.2015 which is a prerequisite to the show cause notice which is challenged in the present case is furnished. Hence, there is no violation of the provisions as stated.

6. In such view of the matter, we dismiss the writ petition however, giving liberty to the petitioner to submit his explanation to the show cause notice and thereafter, proceed in accordance with law. No costs. Consequently, M.P. (MD) No.1 of 2015 is closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Thanjavur District,
Thanjavur.

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Thanjavur District.

3. The Assistant Commissioner, Hindu Religious & Endowment Commission,
Palace Devasthanam, Thanjavur Town, Thanjavur.

4. The Commissioner,
Thanjavur Municipal Corporation,
Thanjavur.

5. The Hereditary Trustee, Palace Devasthanam, Thanjavur.

+1cc to Mr. U. Chandrasekar, Advocate SR.No.52870

Writ Petition (MD) No.16272 of 2015
09.09.2015

sms

NS/SKS-RR/29.09.2015 : 3P/7C