

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.12457 of 2016

1 Kolanjinathan ... Petitioner
Vs.

1 The Commissioner
Hindu Religious and Charitable Endowment
Nungambakkam, Chennai 34

2 The Joint Commissioner
Hindu Religious and Charitable Endowment
Villupuram, Villupuram

3 The Executive Officer
Hindu Religious and Charitable Endowment
Arulmigu Viruithagirieswarar Temple
Virudachalam Town (TK)
Cuddalore District

4 R.Kalyanamurugan Respondents

PRAYER : Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus directing the respondents to dispose of the representation dated 7.12.2015 in light of the N.O.C. (No Objection Certificate) dated 18.9.2012 issued by the 3rd respondent in favour of the 4th respondent on merits and in accordance with law within a stipulated time.

For Petitioner : Ms.A.Anusuya
For Respondents : Mrs.Rita Chandrasekar
Special Government Pleader

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O R D E R

The prayer in the writ petition is for issuance of a Writ of Mandamus, directing the respondents to dispose of the petitioner's representation dated 7.12.2015 in light of the "No Objection Certificate" dated 18.9.2012 issued by the 3rd respondent in favour of the 4th respondent on merits and in accordance with law within a stipulated time.

(2.1) The case of the petitioner is that the property in Survey No.166/3 originally belongs to Arulmigu Viruthagirieswarar Temple, Virudhachalam Town, which is under the control of Hindu Religious and Charitable Endowment Department. Nearly 50 persons were permitted to construct a small house and reside in the aforesaid property. Among 50 persons, some were paying land tax to the temple directly through the third respondent. The petitioner is in possession and enjoyment of the said land for more than 6 years without any interruption.

(2.2) The petitioner purchased 3 cents of lands, belonging to Arulmigu viruthigireswarar Temple, by an unregistered document from one Varadaraj, S/o.Chella Padayachi on 10.4.2013 for a valuable consideration, in which the petitioner constructed a small hut. The petitioner is also doing business of manufacturing mud lights and from and out of the earning of the said business, he is running a family. Till date, there is no electricity service connection. The petitioner is having small children and aged parents. Hence, the petitioner approached the third respondent and informed him that he is ready and willing to pay land tax to the temple and requested him to make arrangements for electricity service connection. The third respondent orally informed him that he would make necessary arrangements for getting electricity service connection. The petitioner also has given a representation to the second respondent on 22.8.2013, with a copy marked to the third respondent. The said representation is also pending before him. The petitioner also approached Ex.MLA, explaining his difficulties. The said M.L.A. forwarded his representation to the HR & CE Minister, Government of Tamil Nadu. The said representation was also brought to the knowledge of the first respondent. But, even thereafter, no forthcoming action was taken.

(2.3) The fourth respondent, who is a similarly placed person like the petitioner, was granted No Objection Certificate by the third respondent on 18.9.2012, for getting electricity service connection in his favour. The petitioner has given a representation to the second respondent on 7.12.2015, with copies marked to the first and third respondents to consider his request in the light of the No Objection Certificate issued in favour of the fourth respondent. However, the respondents have not taken any action. Hence the writ petition.

(3) The learned Special Government Pleader, who took notice on behalf of the respondents, opposed the prayer sought for by the petitioner on the ground that the petitioner is only an encroacher and he has no valid right. However, I am unable to accept the above contention, since the limited prayer made by the petitioner is only to direct the respondents to dispose of

his representation within a time frame.

(4) Hence, this Court directs the respondents to consider the representation of the petitioner dated 7.12.2015 in light of the "No Objection Certificate" dated 18.9.2012 issued by the 3rd respondent in favour of the 4th respondent and pass appropriate orders, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion with regard to the claim made by the petitioner and it is for the respondents to consider the claim of the petitioner strictly on merits and in accordance with law. The writ petition is disposed of accordingly. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

- 1 The Commissioner
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Villupuram, Villupuram
- 3 The Executive Officer
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Arulmigu Viruithagirieswarar Temple
Virudachalam Town (TK)
Cuddalore District

+1 cc to Mr.A.Anusuya Advocate sr.20998
+1 cc to Government Pleader sr.21561

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