

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Writ Petition No.19703 of 2016

K.Boopathy

...Petitioner

Vs.

1.Sampath

Executive Officer
Kachalishwara Temple
Mannadi, Chennai-01

2.Sampath

Executive Officer
Malligeshwara Temple
Mannady, Chennai-01

3.The Commissioner

The Tamil Nadu Hindu Religious
and Charitable Endowments Dept.,
119, Uthamar Gandhi Salai
Opp to Taj Coromandal Hotel
Nungambakkam, Chennai-8

4.The Commissioner

The Corporation of Chennai
Rippon Buildings, Chennai-03

5.The Zonal Officer

Chennai Corporation, Zone V, Ward 60
Mannadi, Chennai-1

6.The Chairman

Chennai Metropolitan Development Authority
No.1, Gandhi Irwin Road, Egmore
Chennai-8

7.Anandha Vinayagar Temple

Rep. By Executive Officer
Thambu Chetty Street,
Parrys, Chennai-600 001

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 4th respondent to remove the illegal construction made in petitioner's premises bearing Old Door No.152-A, present Door No.292, Thambu Chetty Street, George Town, Madras-01, bearing S.No.2315 New R.S.No.2898 constructed by 7th respondent under the guidance of 1st respondent.

For Petitioner : Mr.Veera Raghavan
for Mr.R.Arun Kumar
For respondents : Mrs.Rita Chandrasekar for R1 to R3
Mr.Arunmozhi, Standing counsel
for R4 and R5
Mr.C.Johnson, Standing Counsel
for R6.

O R D E R

(Order of the Court was made by HULUVADI G. RAMESH, J.)

Heard the learned counsel for the petitioner, Mrs.Rita Chandrasekaran, learned counsel for respondents 1 to 3, Mr.Arunmozhi, learned Standing counsel for respondents 4 and 5, Mr.C.Johnson, learned Standing counsel for 6th respondent.

2. On the allegation of illegal construction of Temple Tomb of "Anandha Vinayakar Temple" by the 1st and 2nd respondents, close to the petitioner's premises bearing Old Door No.152-A, present Door No.292, Thambu Chetty Street, George Town, Madras-1, the petitioner is before this Court stating that the erection of the temple tomb affects his easementary rights. The petitioner seeks a direction to the 4th respondent to remove the said illegal construction.

3. Since the issue involved herein viz., whether the construction of temple tomb by respondents 1 to 3 is carried out after following the rules or an illegal construction, is a disputed question of fact, the same has to be decided elsewhere, which involves question of fact finding. Hence, it is for the petitioner to establish his rights including easementary rights, if any, before the appropriate forum.

4. In the circumstances, there is no scope for entertaining this writ petition. Accordingly, the same is dismissed. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

nvsri

To

- 1.The Commissioner
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and Charitable Endowments Dept.,
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Nungambakkam, Chennai-8
- 2.The Commissioner
The Corporation of Chennai
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- 4.The Chairman
Chennai Metropolitan Development Authority
No.1, Gandhi Irwin Road, Egmore
Chennai-8

+1 cc to M/s.R.Arunkumar Advocate sr.31601
+1 cc to M/s.C.Johnson Advocate sr.31790
+1 cc to M/s.A.Nagarajan Advocate sr.31662
+1 cc to Government Pleader sr.32299

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