

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2016

CORAM:

THE HON'BLE MR. JUSTICE SATISH K.AGNIHOTRI
and
THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

W.A. No.513 of 2016 and C.M.P. No.7053 of 2016

V. Kittu Appellant

vs.

- 1 The District Collector
Kancheepuram District
 - 2 The Revenue Divisional Officer
Chengalpattu
Kancheepuram District
 - 3 The Tahsildar
Thirukazhukundram Taluk
Kancheepuram District
 - 4 The Executive Officer
Mamallapuram Town Panchayat (Spl. Grade)
Mamallapuram
Thirukazhukundram Taluk
Kancheepuram District
 - 5 N.M. Murugan
Executive Officer
Mamallapuram Town Panchayat (Spl. Grade)
Mamallapuram
Thirukazhukundram Taluk
Kancheepuram District.
 - 6 The Inspector of Police
Mamallapuram Police Station
Mamallapuram
Thirukazhukundram Taluk
Kancheepuram District
- Respondents

Writ Appeal preferred under Clause 15 of the Letters Patent
challenging the order dated 30.11.2015 passed in W.P. No.35884
of 2015.

Petition under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus directing the respondents to restore the possession the shops of the petitioner and a small Munieswaran Temple in its original places situated at Mamallapuram Beach Mamallapuram Village Thirukazhukundram Taluk Kancheepuram District and consequently direct the respondents to pay damages for a sum of Rs.10 00 000/- (Rupees Ten Takhs only) for the illegal demolition of shops of the petitioner made on 19.10.2015.

For appellant Mr. A. Ramalingam

For RR 1-4 & 6 Mrs. A. Srijayanthi
Special Government Pleader

ORDER

(delivered by SATISH K.AGNIHOTRI, J.)

This intra-Court appeal is directed against the order dated 30 November 2015 passed in W.P. No.35884 of 2015.

2 Mrs. A. Srijayanthi, learned Special Government Pleader, accepts notice for respondents 1 to 4 and 6.

3 To avoid prolixity, the parties are referred to as per their litigative status in the instant intra-Court appeal.

4 The appellant preferred the instant writ petition seeking a writ of mandamus directing the respondents to restore possession of his shops and a small Munieswaran Temple in their original places situated at Mamallapuram Beach, Mamallapuram Village, Thirukazhukundram Taluk, Kancheepuram District and consequently, direct the respondents to pay damages to the tune of Rs.10,00,000/- for the illegal demolition of his shops on 19 October 2015. The learned Single Judge, based on the documents produced by the respondents, observing that the appellant had failed to establish that he was the rightful owner of the land in question, held that the appellant had made construction in the land belonging to the Tamil Nadu Tourism Development Corporation and as such, the illegal structures have been demolished. Accordingly, the learned Single Judge declined to direct the respondents to restore possession of the appellant's shops and temple and also pay damages to him.

5 The facts, as posited by the appellant are qua ownership of the land in question, which itself is a disputed question of fact. As such, the same cannot be examined in writ

jurisdiction. If the appellant claims that he is the lawful owner of the land in question and that the demolition of shops and temple is illegal, he can take recourse to the competent jurisdictional Civil Court for establishing his right and also claiming damages, as per law.

6 In such view of the matter, we are of the considered view that the order passed by the learned Single Judge warrants no interference.

As a sequel, this intra-Court appeal fails and stands dismissed accordingly. Costs made easy. Connected C.M.P. is closed.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

To

- 1 The District Collector,
Kancheepuram District.
- 2 The Revenue Divisional Officer,
Chengalpattu,
Kancheepuram District.
- 3 The Tahsildar,
Thirukazhukundram Taluk,
Kancheepuram District.
- 4 The Executive Officer,
Mamallapuram Town Panchayat (Spl. Grade),
Mamallapuram,
Thirukazhukundram Taluk,
Kancheepuram District.
- 5 The Inspector of Police,
Mamallapuram Police Station,
Mamallapuram,
Thirukazhukundram Taluk,
Kancheepuram District.

+1cc to the Government Pleader sr.26834
+1cc to Mr.A.Ramalingam, Advocate sr.26501

W.A. No.513 of 2016

pa (CO)
srg (13.05.2016)