

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2016

CORAM:

THE HON'BLE MR.JUSTICE B.RAJENDRAN

W.P.No. 30749 of 2016
and
W.M.P.No.26650 of 2016

E.Ulaganayagi

... Petitioner

Versus

1. The Commissioner,
Hindu Religious and Charitable
Endowments Administrative Department,
Nungambakkam, Chennai - 600 034.
2. The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Administrative Department,
Nungambakkam, Chennai - 600 034.
3. The Executive Officer,
Arulmigu Padalathiri Seeyathamman Temple,
Korattur, Chennai - 600 076.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of writ of certiorarified mandamus, to call for the records relating to the order dated 19.11.2015 made in Suo motu Revision No.34/2013 D2 passed by the 1st respondent herein and quash the same and restore the order of the Assistant Commissioner, Hindu Religious and Charitable Endowments Administrative Department dated 08.06.1992 made in Mu.Mu.No.7749/90/B2.

For Petitioner : Mr.J.Perumalsamy
For R1 and R2 : Mr.M.Maharaja,
Special Govt. Pleader

ORDER

The present writ petition has been filed by the petitioner challenging the order dated 19.11.2015 made in Suo motu Revision No.34/2013 D2 passed by the first respondent, namely, the Commissioner of Hindu Religious and Charitable Endowments Administrative Department, by which the communication dated 08.06.1992 of the Assistant Commissioner, Chennai, was set aside.

in survey No.286, measuring an extent of 58 cents in Korattur Village, Ambattur Taluk, Thiruvallur District is the Temple property and one Ponnurangan and others are trying to alienate the said property. Based on the said complaint, the second respondent made an enquiry and passed an order dated 08.06.1992, wherein, it is stated that the property does not belong to the Temple and there is no record to show that the property belonged to the Temple and hence, no action could be taken against the said persons. Challenging the said order, the third respondent filed writ petitions in W.P.Nos.33297 and 33298 of 2014. This Court, by an order dated 17.12.2014, set aside the order dated 08.06.1992 of the second respondent and remitted the matter to the first respondent herein, with a direction to issue a notice to the petitioner therein and pass order on merits and in accordance with law. Pursuant to the direction of this Court, the first respondent had taken up suo motu revision petition and by an order dated 19.11.2015, set aside the order dated 08.06.1992 of the second respondent. Challenging the same, the present writ petition is filed.

3. The learned counsel appearing for the petitioner submitted that the petitioner has purchased the vacant land to the extent of 1200 sq.ft. from one M.Muniyandi, represented by his Power Agent S. Suresh, by a registered Sale Deed dated 23.11.2012 and she has been in possession of the same. The third respondent herein has filed a suit in O.S.No.17 of 2014 before the District Munsif Court, Ambattur, seeking permanent injunction against the petitioner and the petitioner also contested the said suit. The petitioner came to know about the passing of suo moto order only in the month of June 2016. Thereafter only, the petitioner has come to this Court with this writ petition. The learned counsel for the petitioner further submitted that this Court, by an order dated 17.12.2014 in W.P.Nos.33297 and 33298 of 2014, directed the first respondent to review the order dated 08.06.1992 of the second respondent and to pass orders after issuing notice to the petitioner herein. Despite the direction of this Court dated 17.12.2014, no notice has been issued by the first respondent before passing the suo moto revisional order and no opportunity of hearing has been given to the petitioner. Hence, the suo moto revisional order is liable to be set aside.

4. The learned Special Government Pleader appearing for the respondents would contend that as against the suo moto revisional order dated 19.11.2015, there is an alternative remedy available for the petitioner to file a review before the Government under Section 114-A of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. The petitioner, without availing such remedy, has straight away filed the present writ petition. Therefore, this writ petition is not maintainable.

5. I heard the counsel for both sides and perused the materials placed on record. According to the petitioner, she has purchased the vacant land to the extent of 1200 sq.ft. by way of registered sale deed dated 23.11.2012. In fact, the suo moto revisional order was passed by the first respondent after a

direction was issued by this Court in W.P.Nos.33297 and 33298 of 2014. As rightly contended by the learned Special Government Pleader appearing for the respondents, as against the suo motu order of the first respondent, there is an alternative remedy available for the petitioner to file a review under Section 114-A of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, which she has not exhausted.

In view of the same, the present writ petition is disposed of with liberty to the petitioner to prefer a review petition before the Government, as against the suo moto revisional order dated 19.11.2015 of the first respondent, within a period of fifteen days from the date of receipt of a copy of this order. On such review being filed by the petitioner, the Appellate Authority shall look into the same and pass orders on merits and in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

ogy/rsh

To

1. The Commissioner,
Hindu Religious and Charitable
Endowments Administrative Department,
Nungambakkam, Chennai - 600 034.
2. The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Administrative Department,
Nungambakkam, Chennai - 600 034.

1 cc to J.Perumalsamy, Sr.No.50569
1 cc to Government Pleader, Sr.No.50849

WP No. 30749 of 2016

nr(co)
pmk.22.10.2016