

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.4481 of 2016

and

WMP.No.3822/2016

- 1.S.Sendrayan
- 2.S.Govindhan
- 3.Govindhammal
- 4.R.Jayapal

...Petitioners

Vs.

- 1.The Commissioner,
Hindu Religious & Charitable Endowments
Administration Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai-34.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Endowments,
Salem-1.
- 3.The Executive Officer/Thakkar,
Arulmighu Thimmaraya Perumal Swamy Thirukovil,
Moolakkadu, Kolathur via,
Mettur Taluk,
Salem District.

...Respondents

PRAYER : Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus, directing the first respondent to dispose of the petitioner's appeal, dated 14.01.2016, within a limited time frame and consequently direct the respondents 2 and 3, to maintain the status quo till the disposal of the appeal, dated 14.01.2016.

For Petitioners

:Mr.A.Esakkiappan

For Respondents

:Mr.P.Sanjay Gandhi,
Addl.Govt.Pleader.

O R D E R

This Writ Petition has been filed, praying for issuance of a writ of mandamus, to direct the first respondent to dispose of the petitioner's appeal, dated 14.01.2016, within a limited time frame and consequently direct the respondents 2 and 3, to maintain the status quo till the disposal of the appeal.

2. The petitioners have stated in their affidavit that they are doing agricultural operations in Inam Land situated at Survey No.53/1 to an extent of 3 acres, Moolakkadu village, Kolathur Via, Mettur Taluk, Salem District. The said lands of petitioners have been acquired by the British Government for construction of Mettur Dam and the Government has leased out the properties to the petitioners' predecessors, who are paying the lease amount to the authorised person of the temple and now the petitioners are in peaceful possession and enjoyment of the properties, as the lessees. That being so, on 03.12.2014, the petitioners have received a notice dated 29.11.2014, from the third respondent, not to do any agricultural works in the said land and the petitioners are directed to hand over the lands to the third respondent on or before 31.05.2015. After receipt of the notice, the petitioners have approached the third respondent and explained about the possession and the enjoyment of the land and about the lease, payment of lease amount etc., and they have also agreed to pay the pending lease amount if any, and, further the third respondent also accepted the same. On 05.03.2015, the petitioners have received a public auction notice that the third respondent is making arrangements to lease out the land to third parties, violating the law and its procedure.

3. The further case of the petitioners is that, the third respondent has issued a public auction notice dated 20.02.2015, without proper order from his higher authorities, and without knowledge of his officials. In the meanwhile, the petitioners filed a suit in O.S.No.65 of 2015 before the District Munsif Court, Mettur, for declaration, declaring that the auction notice dated 20.02.2015 issued by the third respondent is arbitrary, and the same is pending. Again, the third respondent issued a notice dated 29.11.2014 to the petitioners to vacate the premises and hand over the properties on or before 31.05.2015. In this regard, the petitioner sent a legal notice, dated 05.03.2015, narrating the above facts, but the third respondent sent a reply notice dated 07.03.2015, stating that the petitioners are encroachers and hence their claim could not be considered. On 04.04.2015, the petitioners made a representation to the respondents, but no orders have been passed. Under the circumstances, the petitioners filed a Writ Petition before this Court, seeking to quash the order

dated 29.11.2014, of the third respondent and this Court issued a direction to the second respondent to consider the petitioners' representation dated 04.04.2015, within a period of eight weeks, by an order dated 17.08.2015, in W.P.No.15161 of 2015. Thereafter, on 21.12.2015, the second respondent has rejected the petitioners' claim. Aggrieved over the same, the petitioners preferred an appeal, dated 14.01.2016, to the first respondent, seeking to pass orders on the said appeal, but, till date, no orders have been passed, and the third respondent is trying to evict the petitioners from the said premises. Hence, the petitioners have filed this Writ Petition, seeking for the relief stated supra.

4. I have heard the learned counsel for the parties.

5. When the matter is taken up for consideration, learned Additional Government Pleader appearing for the respondents has submitted that the appeal has been filed by the petitioners before the first respondent under Sections 79 and 80 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, which is not legally sustainable, whereas the Commissioner, first respondent herein, is having powers only under Section 21 of the Act, to call for the records from the second respondent and pass orders thereon.

6. In view of the above facts and circumstances of the case, this Court directs the petitioners to submit a fresh representation to the first respondent with regard to the orders passed by the second respondent within a period of one week from the date of receipt of a copy of this order, and on receipt of such representation, the first respondent is directed to consider the same by virtue of Section 21 of the Act and pass appropriate orders in accordance with law, within a period of four weeks thereafter. It is made clear that until the orders are passed by the first respondent, the parties are directed to maintain status quo as on date.

7. Writ Petition is disposed of accordingly. No costs. Consequently, the connected W.M.P.No.3822 of 2016 is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

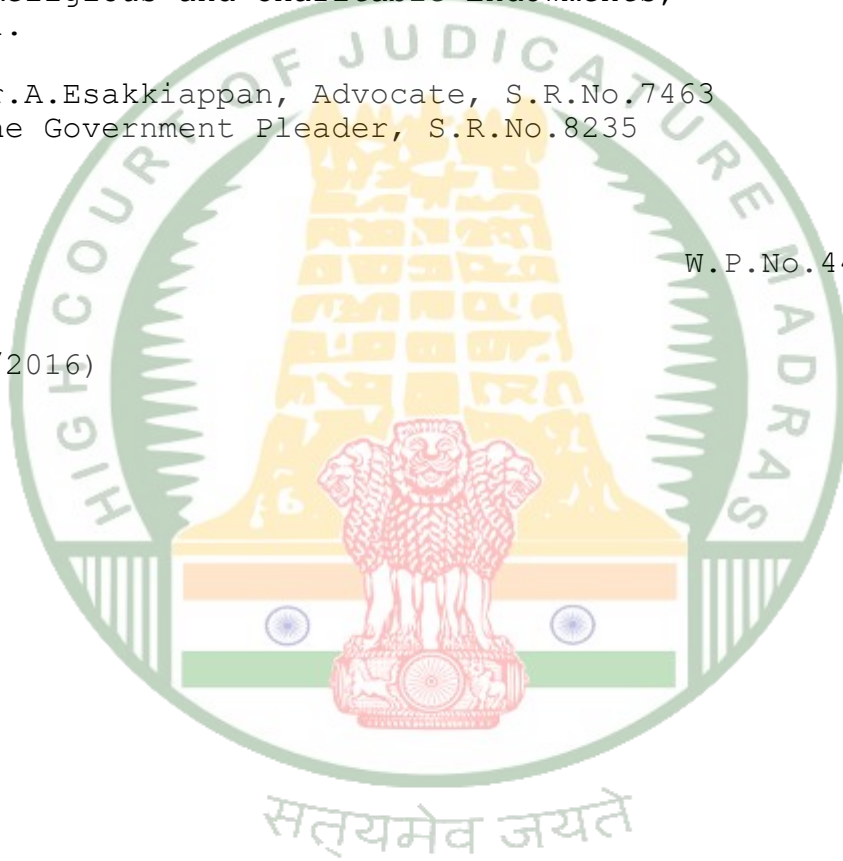
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2.The Joint Commissioner,
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Salem-1.

+1cc to Mr.A.Esakkiappan, Advocate, S.R.No.7463
+1cc to the Government Pleader, S.R.No.8235

W.P.No.4481 of 2016

rsy(CO)
srg(18/02/2016)



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