

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.6380 of 2016
and
W.M.P.No.5668 of 2016

Tmt.Devasundari

... Petitioner

Vs.

- 1.The Commissioner
Hindu Religious and Charitable Endowments Board,
Uthamar Gandhi Road,
Nungambakkam,
Chennai.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Board,
Villupuram,
- 3.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Board,
Tiruvannamalai.
- 4.The Executive Officer,
Arulmighu Puthira Kameswarar Aalayam,
Gilla Varadharajar Aalayam,
Arnipalayam,
Arni, Tiruvannamalai 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 respondents to consider the Petitioner's representation dated 17.02.2016 and to consequently direct the respondents not to evict the Petitioner at backside of Arulmighu Puthira Kameswara Aalayam, Puthukamoor Road, Arnipalayam, Arni Town, Tiruvannamalai District, B1 Block, T.S.No.18/2:5 Cents Land and house.

For Petitioner : Mr.S.L.Venkatesan

For Respondents : Mr.P. Sanjay Gandhi
Additional Government Pleader

O R D E R

The petitioner has come forward with this Writ Petition seeking for issuance of mandamus upon the respondents to consider his representation dated 17.2.2016 and to consequently direct the respondents not to evict her from the land and house, measuring 5 cents, comprised in T.S.No.18/2, situate backside of Arulmighu Puthira Kameswara Alayam, Puthukamoor Road, Arnipalayam, Arni Town, Tiruvannamalai District.

2. The petitioner is residing along with her family consisting of a daughter deserted by her husband and a 5 year old female child at the back side of Arulmighu Puthira Kameswara Alayam, without any disturbance for the past 30 years. The petitioner has been enjoying more than 50 cents of land behind the said Temple. But the 4th respondent viz., the Executive Officer, Arulmighu Puthira Kameswarar Alayam, Gilla Varadharajar Alayam, Arnipalayam, Arani, Tiruvannamalai District is continuously harassing the petitioner to vacate the land and hence she left 45 cents to the Temple and the petitioner wants only 5 cents of land, because the petitioner had already put up a construction and residing along with his family. The petitioner has filed a suit in O.S.No.31 of 2006 before the learned District Munsif, Arni, Tiruvannamalai District to decide the rightful ownership in respect of the property under her possession and enjoyment to receive the rent or the penal charges on the B memo and also for permanent injunction restraining the Temple from interfering with the petitioner's peaceful possession and enjoyment of the property in dispute. The said suit was dismissed on 30.11.2011 on a finding that the property in dispute belongs to the Temple. The petitioner has been in possession and enjoyment of the said property till date.

3. Whiles, the 4th respondent has instructed the Electricity Office to disconnect Electricity connection to her residence. Hence the petitioner sent a representation on 17.2.2016 to the 2nd respondent requesting to fix rent for the superstructure raised by the petitioner in the property measuring 5 cents and in the event of such fixation, she is willing to pay the rents fixed by the respondents without any default. But the said representation was not considered and now the 4th respondent is attempting to take steps to evict the petitioner from the above property. Hence the petitioner has filed the present Writ Petition seeking for a direction not to evict her from the said property.

4. Learned counsel for the petitioner submitted that though the petitioner has made representation on 17.2.2016 before the 2nd respondent, the same is kept pending till date without passing any orders and now the 4th respondent is hurriedly taking steps to evict her from the property. Thus he sought for a direction.

5. Learned Additional Government Pleader vehemently opposed to grant for a direction stating that the petitioner has filed a suit against the respondents in O.S.No.31 of 2006 before the learned District Munsif, Arni, Thiruvannamalai District and the same was dismissed. Therefore, the petitioner has no valid legal right to request the respondents not to evict her from the property.

6. I have heard the submissions made on either side and perused the materials available on record.

7. Irrespective of the submissions made on both sides, I find that already a representation given by the petitioner dated 17.2.2016 is pending with the 2nd respondent till date. Hence, this Court, without going into the merits of the case, directs the 2nd respondent to consider the representation of the petitioner dated 17.2.2016 and dispose of the same 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 merits of the claim made by the petitioner and it is for the 2nd respondent to pass orders purely on merits on the representation of the petitioner.

8. With the above direction, this Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

msr

To

1.The Commissioner
Hindu Religious and Charitable Endowments Board,
Uthamar Gandhi Road,
Nungambakkam, Chennai.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Board,
Villupuram

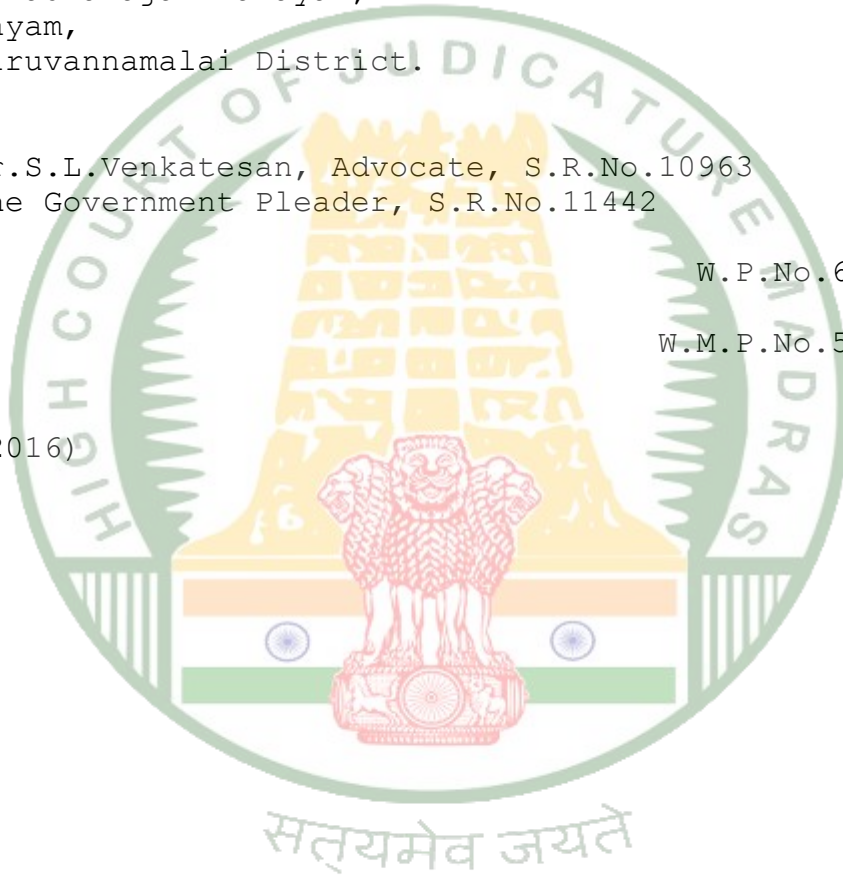
3.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Board,
Tiruvannamalai.

4.The Executive Officer,
Arulmighu Puthira Kameswarar Aalayam,
Gilla Varadharajar Aalayam,
Arnipalayam,
Arni, Tiruvannamalai District.

+lcc to Mr.S.L.Venkatesan, Advocate, S.R.No.10963
+lcc to the Government Pleader, S.R.No.11442

W.P.No.6380 of 2016
and
W.M.P.No.5668 of 2016

VD(CO)
CA(29/03/2016)



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