

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.9126 of 2016
and WMP.No.8125 of 2016

S.Maliga

... Petitioner

Vs

1. The Commissioner of HR&CE
HR&CE Department,
No.19, Uthamar Gandhi Street,
Nungambakkam, Chennai-19.
2. The District Collector of Vellore
Collectorare,
Sathuvachari, Vellore District,
Vellore.
3. The Joint Commissioner
HR&CE Department
RDO Office Road,
Sathuvahcari,
Vellore.
4. The Tahsildar of Anaicut,
Thasildar Office,
Anaicut Taluk,
Vellore District.
5. The Executive Officer
Arulmigu Uthiraranganatha Swami Temple,
Pallikonda, Vellore District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of mandamus to direct the respondents to consider the petitioner's representation dated 19.02.2016 and further direct the respondents 1, 3, 5 not to remove the petitioner from the property in her possession situated in S.No.50/2 to an extent of 350sq.ft and building thereon having door No.Old.No.3, New No.7, Ovaiyar Street, Keezachur Village, Pallikonda, Vellore District.

For Petitioner : Mr.A.Gowthaman
For Respondents : Mrs.Rita Chandrasekar,
Spl.GP (HR&CE) for R1, 3 and 5.
Mr.V.Jayaprakash Narayanan,
Spl.GP for R2 and R5.

O R D E R

With the consent of both sides, the Writ Petition is taken up for final disposal.

2.The petitioner has come up with the present writ petition for issuance of writ of mandamus to direct the respondents to consider the petitioner's representation dated 19.02.2016 and further direct the respondents 1, 3, 5 not to remove the petitioner from the property in her possession situated in S.No.50/2 to an extent of 350sq.ft and building thereon having door No.Old.No.3, New No.7, Ovaiyar Street, Keezachur Village, Pallikonda, Vellore District.

3.The petitioner is residing in Old.No.3, New No.7, Ovaiyar Street, Keezachur Village, Pallikonda, Vellore District for the past 25years. The said land was classified as Poramboke land and absolutely belong to the Government in S.No.50/2, the total extent of the land in S.No.50/2 is 54cents. The petitioner is in possession and enjoyment of the said land in S.No.50/2 to an extent of 350sq.ft and constructed a house. The Government has also issued family card, voter identity card issued by the election commission of India, house tax receipts, electricity consumption charge receipt and water tax receipt to show the possession of the property. The petitioner is leading her life with great difficulties by doing coolie work and she did not have any other property except this property.

4.In this circumstances, the fifth respondent issued a notice dated 08.03.2013 intimated that the property situated in S.No.50/2 to an extent of 0.54cents belongs to the temple namely Arulmigu Unthiraranganathasamy and further intimated that the property to an extent of 350sq.ft which was under the possession of the petitioner for the past 25years belongs to the temple and stated that the petitioner had encroached the land and put up the house. The 5th respondent stated that due to encroachment of land by the petitioner, there was huge loss to the temple and hence demanded the petitioner to vacate the premises within thirty days from the date of receipt of notice and informed that appropriate action will be taken under Section 78 of the HR&CE Act. Hence, the petitioner filed the present writ petition.

5.Heard the submissions of learned counsel appearing for the petitioner and the learned Special Government Pleader (HR&CE)

for R1, 3 and 5 and the learned Special Government Pleader for R2 and R4 who accepts notice on behalf of the respondents.

6.This Court, taking into consideration the limited scope of the prayer sought for by the petitioner and without going into the merits of the same, directs the fifth respondent to consider the representation of the petitioner dated 19.02.2016 on merits and in accordance with law, within a period of four weeks. It is made clear that this Court has not expressed any opinion on merits of the claim of the petitioner. It is for the fifth respondent to decide the issue purely on merits.

7.The writ petition is disposed of accordingly. Consequently, connected miscellaneous petition is closed. No costs.
tsh

-s/d-

Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

To

1.The Commissioner of HR&CE
HR&CE Department,
No.19, Uthamar Gandhi Street,
Nungambakkam, Chennai-19.

2.The District Collector of Vellore
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5.The Executive Officer
Arulmigu Uthiraranganatha Swami Temple,
Pallikonda, Vellore District.

+ 1 cc to M/s.A.Gouthaman, Advocate SR 19832

+ 1 cc to the Govt.Pleader High Court, Madras SR 19719

mp(co)
prk22/4

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