

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.04.2017

CORAM

The Honourable MR. JUSTICE M.DURAISWAMY

W.P.No.9035 of 2017 &

W.M.P.No.9949 of 2017

1. N.Shanmugasundaram
2. N.Raguraman

.... Petitioners

v.

- 1 The Commissioner
Hindu Religious and Charitable Endowments Department
Nungambakkam
Chennai-600 034
- 2 The Joint Commissioner
Hindu Religious and Charitable Endowments Department
Vellore-9
- 3 The Assistant Commissioner
Hindu Religious and Charitable Endowments Department
Kancheepuram
- 4 The Executive Officer
Arulmighu Ekambaranathar Temple
Kancheepuram- 631 502

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorari to call for the records relating to the impugned notices dated 29.3.2017 issued by the 4th respondent and quash the same.

For Petitioner : Mr.J.Lakshmi Narayanan
For Respondents : Mr.Maharaja,
Spl Govt. Pleader - for R1 to R3
Mr.P.V.Arul Phaamnee - for R4

ORDER

Mr.Maharaja, learned Special Government Pleader, takes notice for the respondents 1 to 3 and Mr.P.V.Arul Phaamnee, learned counsel, takes notice for the 4th respondent.

2. The petitioners have filed the above writ petition to issue a Writ of Certiorari to call for the records relating to the impugned notices dated 29.3.2017 issued by the 4th respondent and to quash the same.

3. It is the case of the petitioners that they filed a writ petition in W.P.No.9328 of 2011 before this court and this court also granted an order of interim stay in M.P.No.2 of 2011 in W.P.No.9328 of 2011, by order dated 11.04.2011. According to the petitioners, in spite of the order of stay granted by this court, the 4th respondent issued the impugned notices calling upon the petitioners to vacate and hand over possession of the properties.

4. Mr.P.V.Arul Phaamnee, learned counsel appearing for the 4th respondent submitted that in similar circumstances, this court, by order dated 01.03.2017 in W.P.Nos.5092, 5093 & 5094 of 2017, disposed of the writ petition giving liberty to the petitioners to give reply to the eviction notice within fifteen days and thereafter, the Joint Commissioner will pass appropriate orders as contemplated under law by providing opportunity of hearing to the petitioners.

5. It is also the contention of the petitioners that the Executive Officer had no authority to issue the said eviction notice under Section 78(i) of the H.R. & C.E. Act.

6. The learned counsel appearing for the 4th respondent submitted that it is only a similar notice as contemplated under Section 106 of Transfer of Property Act and that the petitioners are entitled to give reply to the same within fifteen days and thereafter as per the procedure, it will be placed before the Joint Commissioner and the Joint Commissioner, after providing an opportunity to the petitioners, will decide further course of action.

7. Mr.Maharaja, Special Government Pleader appearing for the respondents 1 to 3 submitted that the petitioners may be directed to give reply within a stipulated time and thereafter, the Joint Commissioner will pass appropriate orders, in accordance with law.

8. Having regard to the submissions made by the learned counsel on either side, the petitioners are directed to give reply to the eviction notices, within fifteen days from today and thereafter, the Joint Commissioner shall pass appropriate orders, as contemplated under law, duly, by providing opportunity of hearing to the petitioners.

With these observations, the writ petition is disposed of.
No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Rj

To

- 1 The Commissioner
Hindu Religious and Charitable Endowments Department
Nungambakkam
Chennai-600 034
- 2 The Joint Commissioner
Hindu Religious and Charitable Endowments Department
Vellore-9
- 3 The Assistant Commissioner
Hindu Religious and Charitable Endowments Department
Kancheepuram
- 4 The Executive Officer
Arulmighu Ekambaranathar Temple
Kancheepuram- 631 502

+1cc to Mr.J. Lakshmi Narayanan, Advocate, S.R.No.22879
+1cc to Mr.P.V. Arul Phazam nee, Advocate, S.R.No.22525
+1cc to the Government Pleader, S.R.No.22678

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md(17/04/2017)

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