

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.03.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.5910 of 2017
and W.M.P.No.6326 of 2017

Thangam @ Thangapandian

... Petitioner

Vs.

1.Commissioner,
Hindu Religious and Charitable
Endowments Department,
Nungambakkam High Road,
Chennai - 600 034.

2.The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
Nungambakkam High Road,
Chennai - 600 034.

3.The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Department,
Nungambakkam High Road,
Chennai - 600 034.

4.The Executive Officer,
Arulmighu Thiagarajaswamy Thirukkoil,
Thiruvottiyur, Chennai - 600 019.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for the issuance of writ of mandamus, forbearing the respondents from demolishing the superstructures and evicting the petitioner from the premises bearing Door No.47, Sannathi Street, Thiruvottiyur, Chennai 600 019 comprised in Survey No.237/1 except under due process of law namely initiating action under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act.

For Petitioner :Mr.S.Sadasharam

For Respondents:Mr.M.Maharaja,
Special Government Pleader R1 to R3
Mr.A.K.Sriram for
M/s.A.S.Kailasam Associates for R4

O R D E R

By consent, this writ petition is taken up for final disposal.

2. The petitioner would claims that he is in occupation of a land comprised in Survey No.237/1, bearing No.47, Sannathi Street, Thiruvottiyur, Chennai 600 019 and claims to have put up superstructure and in occupation of the same for more than 40 years vending flowers to the worshipers of Arulmigu Thiyagaraja Temple, which was famously known as Arulmighu Vadivudiamman Temple and seeks to claim right through his father Ponnusamy, who was a lessee.

3. The learned counsel appearing for the petitioner would submit that though the petitioner is in occupation of the said property for quite long time, the respondents 2 to 4, without adhering to due process of law, sought to dispossess the petitioners all of a sudden and thereby, eking his livelihood is in jeopardy and therefore, prays for appropriate protection.

4. Per contra, Mr.M.Maharaja, the learned Special Government Pleader, who accepts notice on behalf respondents 1 to 3, on instructions, would submit that an enquiry is pending on the file of the second respondent under Section 78 of the Hindu Religious and Charitable Endowments Act, 1959 (HR & CE Act) and till the culmination of the enquiry, the petitioner will not be dispossessed except under due process of law. The said submission is placed on record.

5. This Court also heard Mr.A.K.Sriram for M/s.A.S.Kailasam Associates, learned counsel who accepts notice on behalf of the fourth respondent.

6. In the light of the same, this writ petition is disposed of. The respondents 1 to 4 shall defer further proceedings to dispossess/evict the petitioner from the premises in question, till the culmination of the enquiry initiated under Section 78 of the Hindu Religious and Charitable Endowments Act, 1959 (HR & CE Act). No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1.The Commissioner,
Hindu Religious and Charitable
Endowments Department,
Nungambakkam High Road,
Chennai - 600 034.

2.The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
Nungambakkam High Road,
Chennai - 600 034.

3.The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Department,
Nungambakkam High Road,
Chennai - 600 034.

+1cc to Mr.S.Sadasharam, Advocate Sr.15339
+1cc to the Government Pleader Sr. 15895

Writ Petition No.5910 of 2017

nm[col]
srg 22/03/2017