

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2017

CORAM:

THE HON'BLE MR.JUSTICE HULUVADI G RAMESH
AND
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Writ Appeal No.471 of 2017
and
C.M.P.Nos.7047 and 7048 of 2017

P.Vijayalakshmi ... Appellant/Petitioner

Versus

1.The Commissioner,
Hindu Religious and Charitable
Endowment Department,
Uthamar Gandhi Road,
Chennai 600034.

2.The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
Dr.Balasundaram Road,
Coimbatore - 16.

3.The Assistant Commissioner
Hindu Religious and Charitable
Endowment Department, Tiruppur.

4.The Executive Officer,
A/m. Ponkaliasman Temple
Palladam Taluk, Tiruppur District.

5.P.K.Paramasivam. ... Respondents/Respondents

Writ Appeal filed under Clause 15 of Letters Patent, against the order dated 07.02.2017 passed in W.P.No.32240 of 2016 by the learned single Judge.

Prayer in WP.32240/2016

Writ petition filed Article 226 of the constitution of India for issuance of a writ of mandamus direct the respondents 1 to 4 herein to fix the fair rent for the temple land measuring 0.55 cents in S.No. 332/1 Palladam Taluk based on representation dated 28.12.2015 and consequently forbearing the respondents 1 to 4 herein from evicting the petitioner from the temple land belonging to A/m. Ponkalamman Temple measuring 0.55 cents in S.No. 332/1 Palladam Taluk without following the due process of law.

For Appellant ... Mr.V.P.K.Gowtham
For Respondent-1to 3 ... Mr.Maharaja, Govt.Adv.
For Respondent-4 ... Mr.V.M.Abdul Majeed for
M/s.G.Sumitra

JUDGMENT

(Judgment of the Court was delivered by Huluvadi G Ramesh, J)

Heard Mr.V.P.K.Gowtham, learned counsel appearing for the appellant, Mr.Maharaja, learned Government Advocate appearing for the respondents 1 to 3 and V.M.Abdul Majeed, learned counsel appearing for the 4th respondent.

2.According to the appellant, the appellant and the 5th respondent are in occupation of the land measuring about 0.55 cents, in S.No.332/1, Palladam Taluk, belongs to the A/m. Ponkalamman Temple, Palladam, for a very long time and put up a temporary shed of 1000 sq. ft. The appellant and the 5th respondent made a representation on 04.09.2015, to the respondents for fixing the fair rent for the 0.55 cents of land. Whereas, the 4th respondent sent a notice dated 07.09.2015, for handing over possession of the said land or otherwise he would initiate proceedings under Section 78 and 79 of the H.R. & C.E., for removing the encroachment. The appellant had also sent

representations dated 28.12.2015, 11.02.2016 to the respondents which are pending consideration by the respondents 1, 2 and 4. While so, without disposing her representations and without following the due process of law, the 4th respondent had threatened the appellant and the 5th respondent that he would fence the land on any day. In such circumstances, the appellant has sought for a mandamus against the respondents 1 to 4 to fix fair rent for the temple land measuring 0.55 cents in S.No.332/1, Palladam Taluk and for consequential relief to forbear the respondents 1 to 4 from evicting her from the temple land belonging to A/m.Ponkaliasman Temple, Palladam Taluk, without following the due process of law.

3.The learned single Judge on the basis of the submission made by the learned Special Government Pleader stating that they proposed to construct Kalyanamandapam and that the appellant herein is enjoying only an extent of less than 1000 sq. ft., has disposed of the writ petition with a direction to the respondents to consider the representation of the appellant herein in accordance with law within a period of one month and till such time no coercive steps shall be taken in so far as the limited space as enjoyed by the appellant herein as on the date of order. Hence, the present appeal.

4.The grievance of the appellant is that even in the notice for eviction that was sent by the 4th respondent the extent of the land was mentioned as 0.55 cents and in the due course the fourth respondent has filed his counter stating that only 1100 sq. ft. of land alone is in possession of the appellant and the remaining lands out of 0.55 was already taken by the temple. On the basis of the submissions made by the learned Special Government Pleader, the learned single Judge has disposed of the writ petition directing the authority concerned to consider the representation of the appellant dated 28.12.2016 on merits and in accordance with law with respect to the limited space enjoyed by the appellant i.e. 1100 sq. ft. without adverting to the fact that the representations were made by the appellant for the 0.55 cents of land and not for 1100 sq. ft. of the land. As such the appellant has been isolated and due process of law as has not been followed.

5.Considering the submission made by the learned counsel for the appellant, we direct the respondents to consider the representation of the appellant dated 28.12.2016 on merits and pass orders in accordance with law, as per the procedures envisaged under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, within a period of four weeks from the date of receipt of a copy of this order.

6.The writ appeal is disposed of accordingly. No costs.
Consequently, C.M.P.Nos. 7047 and 7048 of 2017 are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Commissioner,
Hindu Religious and Charitable
Endowment Department,
Uthamar Gandhi Road,
Chennai 600034.
- 2.The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
Dr.Balasundaram Road,
Coimbataore - 16.
- 3.The Assistant Commissioner
Hindu Religious and Charitable
Endowment Department, Tiruppur.
- 4.The Executive Officer,
A/m. Ponkaliasman Temple
Palladam Taluk, Tiruppur District.

+1cc to M/s.V.P.K. Gowtham, Advocate, S.R.No.44390
+1cc to M/s.G.Sumitra, Advocate, S.R.No.44155
+1cc to the Government Pleader, S.R.No.44955

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W.A.No.471 of 2017

SKS (CO)
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