

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

WRIT PETITION No.3632 of 2017

N.Sivagnanam

... Petitioner

vs.

1. The Joint Commissioner,
H.R. & C.E. Department,
Nungambakkam High Road,
Chennai 600 034.
2. The Assistant Commissioner,
H.R. & C.E. Department,
Nungambakkam High Road,
Chennai 600 034.
3. The Executive Officer,
Arulmighu Thyagaraja Swami Thirukoil,
Thiruvottiyur,
Chennai 600 019.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari, calling for the records relating to the order under Reference No.3232/2013/Aa2, dated 13.01.2017 of the first respondent and quash the same.

For Petitioner : Mr.Prakash Goklaney
For Respondents 1& 2 : Mr.M.Maharaja,
Special Government Pleader (HR & CE)

O R D E R

The petitioner has come up with this Writ Petition seeking to quash the order dated 13.01.2017 passed by the 1st respondent under Reference No.3232/2013/Aa2.

2. According to the petitioner, a piece of land measuring about 7895 sq. ft. was allotted to his father by the Devasthanam. During the lifetime of his father, the said property was divided between the petitioner and his brothers. While the other three brothers of the petitioner have disposed of their share of the said property, the petitioner is in

possession of a portion measuring 1500 sq. ft. and is paying taxes, electricity charges, independently.

3. While so, he received a Notice vide Na.Ka.No.3232/2013/Aa, dated 11.02.2016, from the office of the 1st respondent in the name of the petitioner's deceased father purported to be under 78(2) of the Act, calling for an enquiry in respect of the alleged encroachment of 7895 sq. ft. of land. Hence, the petitioner sent a letter dated 14.03.2016 through his counsel stating that the notice was addressed to a deceased person. Thereafter, the petitioner received an order under Section 79(1) of the act under Reference Na.Ka.No.3232/2013/Aa2, dated 13.01.2017 alleging that a sum of Rs.3,69,544/- was not paid and that the petitioner should vacate the property within 15 days. Challenging the same, the petitioner is before this Court.

4. Heard the learned counsel on either side and perused the material documents available on record.

5. It is represented that as against the impugned order, there is an appeal pending before the Commissioner of H.R. & C.E. Department. Hence, this Writ Petition is dismissed with liberty to the petitioner to approach the Commissioner, H.R. & C.E. Department, by way of the appeal, by raising all the points including the points raised in the Writ Petition. No costs. Consequently, connected W.M.P.No.3671 of 2017 is closed.

6. Registry is directed to return the original papers to the petitioner.

Sd/-

Assistant Registrar

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

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To:

1. The Joint Commissioner, H.R. & C.E. Department,
Nungambakkam High Road, Chennai 600 034.

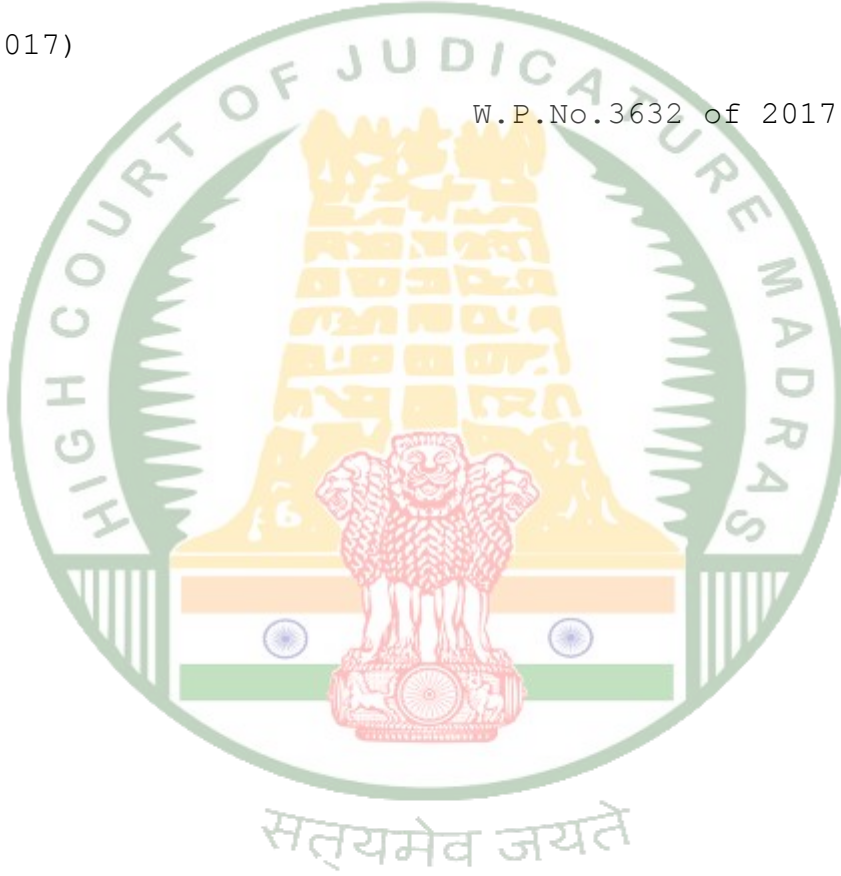
2. The Assistant Commissioner, H.R. & C.E. Department,
Nungambakkam High Road, Chennai 600 034.

3 Copy to:
The Section Officer,
ER Section, High Court,
Madras

+2cc to Mr.Prakash Gokkaney, Advocate, S.R.No.9489
+1cc to the Government Pleader, S.R.No.9938

svi(CO)
md(01/03/2017)

W.P.No.3632 of 2017



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