

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2017

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.10169 of 2004

Pad Singh

... Petitioner

Vs.

1.The Tahsildar
Tirupattur,
Vellore District.

2.The Executive Officer,
Arulmighu Dharmarajar Temple,
Tirupattur,
Vellore District.

3.The Commissioner,
Tirupattur Municipality,
Vellore District.

4.The District Collector,
Vellore District.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 1st and 2nd respondent to restore the possession of the property situate at Door No.47/3, Dharmaraja Temple, 7th Street, Tirupattur, Vellore.

For Petitioner : Mr.V.Raghavachari
For Respondents : Mr.K.Bhuvaneswari
Government Advocate

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Mandamus directing the respondents 1 and 2 to restore the possession of the property situated at Door No.47/3, Dharmaraja Temple, 7th Street, Tirupattur, Vellore.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

3. In the affidavit filed in the writ petition it is stated that the petitioner is carrying on business at Door No.47/3, Dharmaraja Temple, 7th Street, Tirupattur, Vellore for the past several years. He was inducted into possession by the Temple authorities and they are collecting rents for his occupation in the premises. The petitioner has raised a super structure and has also secured electricity service connection and has paid electricity charges till April, 2003. The first respondent claimed the property as a poramboke land and called upon him to pay the charges. The petitioner was paying the rents both to the Government as well as to the Temple Authorities.

4. It is further stated in the affidavit that one Srinivasan had moved this Court in W.P.No.9168 of 2003 seeking orders for removal of encroachments in S.No.364 and this Court has directed the

Tasildhar and the District Collector therein to consider the representation of the petitioner therein, dated 04.04.2001. Accordingly, the first respondent herein demolished the building and razed it to ground and prior to the demolition, no notice has been given. The Executive Officer of the Temple had lodged his objection and asserted his legal rights in and over the property. The petitioner's best efforts to satisfy respondents 1 and 3 that he was not a party to the proceedings were left unconsidered. Hence, the petitioner has come forward with this writ petition.

5. On a perusal of the typed set of documents it is known that no documents were annexed for establishing the petitioner's Title over the property and no lease agreement in favour of the petitioner from the second respondent Temple has been annexed. Without any proper document, this Court cannot issue any Mandamus to the Government Authorities or Temple Authorities to restore the possession of the property in favour of the petitioner. Furthermore, this Court under Article 226 of the Constitution of India is not competent to decide the possession as well as the Title over the Temple property.

M.DHANDAPANI,J.

6. Accordingly, the writ petition is dismissed with liberty to the petitioner to work out his remedy in the manner known to law. No costs. Consequently, the connected miscellaneous petition is also closed.

14.09.2017

pri

Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

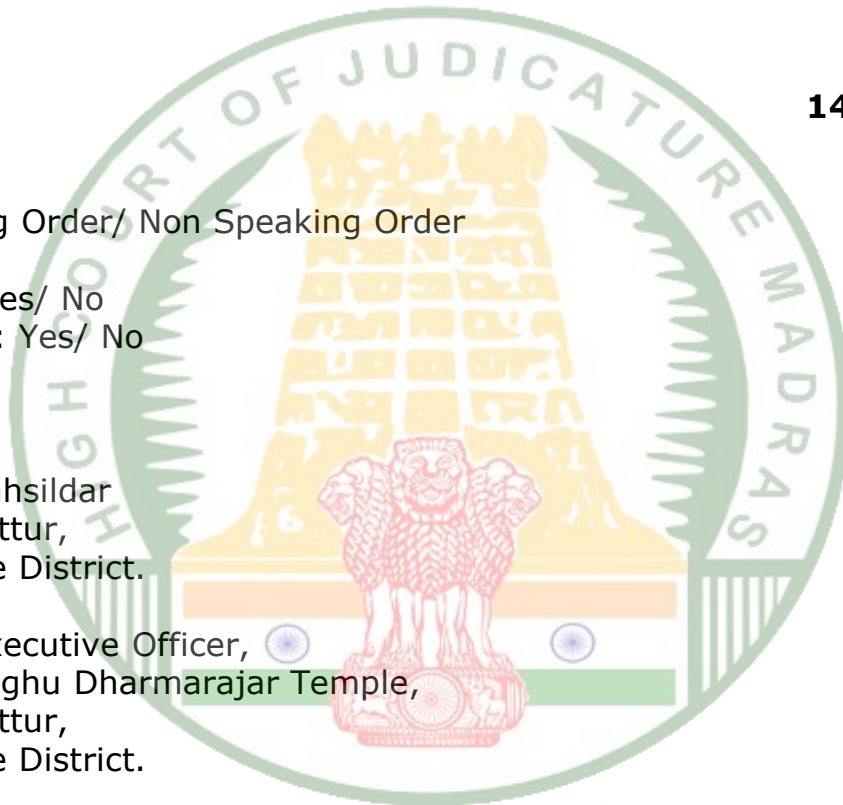
To

1. The Tahsildar
Tirupattur,
Vellore District.

2. The Executive Officer,
Arulmighu Dharmarajar Temple,
Tirupattur,
Vellore District.

3. The Commissioner,
Tirupattur Municipality,
Vellore District.

4. The District Collector,
Vellore District.



WEB COPY

W.P.No.10169 of 2004