

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2017

CORAM

THE HONOURABLE Mr.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

W.P.No.17248 of 2017
and WMP.No.18749 of 2017

Thirumalai

.. Petitioners

Vs.

- 1.The State of Tamil Nadu
Rep by the Secretary to Government
HR&CE Department
Fort St.George, Chennai - 600 009.
- 2.The Joint Commissioner (Additional Charge)
HR&CE Department
Villupuram.
- 3.The Assistant Commissioner,
HR&CE Department
Cuddalore.
- 4.C.Sanjivi Chettiar
Hereditary Trustee
Arulmigu Vedavinayagar Temple
No.5, Netaji Road
Manjakuppam
Cuddalore.
- 5.The Tahsildar
Cuddalore Taluk
Cuddalore.

.. Respondents

Prayer : Writ Petition filed under Section 226 of Constitution of India praying to issue a Writ of Mandamus forbearing the respondents from in any manner demolishing or evicting the petitioner from his residential house and plot in T.S.No.1064/3, Manjakuppam Village, Ramabal Nagar, Cuddalore.

For Petitioners : Mr.Bharatha Chakravarthy
for M/s.Sai Bharath and Ilan
For Respondents : Mr.M.Maharaja
Special Govt. Pleader [RR1 to 3]
Mr. R.Sunil Kumar [R4]
Mr.A.N.Thambidurai
Special Govt. Pleader [R5]

O R D E R

[Order of the Court was made by M.SATHYANARAYANAN,J.]

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

2. The petitioner claims that his father Ponnusamy was in possession of the land admeasuring to an extent of 3569 sq.ft. in T.S.No.1064/3 in Manjakuppam, Cuddalore and has put up a thatched shed and settled there. After the demise of his father, he put up a small pucca built-up house and has been residing there with his family members for more than 40 years. The petitioner, to his shock and surprise, has been issued with the impugned notice by the second respondent invoking Section 78 (2) of the Hindu Religious and Charitable Endowment Act, 1959 and challenging the legality of the same, he came forward to file this writ petition.

3. The writ petition was entertained on 07.07.2017 and interim orders were passed by this Court.

4. The fourth respondent has filed the counter contending among other things that the property stands in the name of Arulmighu Vedha Vinayagar Temple and the petitioner was a tenant under him and has also entered into a tenancy agreement with him as early as on 19.12.1974, but suppressing the same, the petitioner had filed this writ petition. It is further stated that the second respondent, vide order dated 19.06.2017, had mentioned that the property belongs to Arulmighu Vedha Vinayagar Temple and since the petitioner is an encroacher, he is liable to be evicted from the temple property within a period of 30 days.

5. This Court heard the submissions of Mr.Bharatha Chakravathy, learned counsel appearing for the petitioner, Mr.M.Maharaja, learned Special Government Pleader appearing for the respondents 1 to 3, Mr. R.Sunil Kumar learned counsel appearing for the fourth respondent and Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the fifth respondent.

6. In the light of the stand taken by the fourth respondent in paragraph No.7 of the counter affidavit, this Court is of the view that nothing survives for adjudication in this writ petition and therefore, it is liable to be dismissed. However, the second respondent is directed to serve a copy of the order dated 19.06.2017 upon the petitioner, within a period of two weeks from the date of receipt of a copy of this order and upon receipt of the same, if the petitioner is so advised, he is at

liberty to approach the competent authority, to seek his further remedy, in accordance with law.

7. The writ petition is dismissed, subject to the above observations. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ds

To:

- 1.The Secretary to Government
HR&CE Department
Fort St.George, Chennai - 600 009.
- 2.The Joint Commissioner (Additional Charge)
HR&CE Department
Villupuram.
- 3.The Assistant Commissioner,
HR&CE Department
Cuddalore.
- 4.The Tahsildar
Cuddalore Taluk
Cuddalore.

+1cc to Mr.R.Sunil Kumar, Advocate, S.R.No.66188
+1cc to Mr.Sai Bharath and illan, Advocate, S.R.No.66621
+1cc to the Government Pleader, S.R.No.66427

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SKS (CO)
GN(25/10/2017)