

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P.No.28225 of 2013
& M.P.No.1 of 2013

S.Suresh

.. Petitioner

Versus

1. The Executive Officer,
Sivanmalai Subramaniya Swamy Temple,
Sivanmalai, Kangayam Taluk,
Tiruppur District.

2. The Tahsildar,
Kangayam Taluk, Kangayam,
Tiruppur District.

.. Respondents

Prayer: The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, forbearing the respondents from taking over possession of the petitioner's house situated in Door Nos.18/163, Gandhi Nagar, Kangayam in S.No.561/2, Kangayam Village, Kangayam Taluk, Tiruppur District to the extent of 5 cents unless due process of law.

For Petitioners : Mr.C.Prakasam

For Respondents : Mr.K.Ganesan (for R1)

Mr.S.Diwakar, Spl.G.P. (for R2)

सत्यमेव जयते

O R D E R

The petitioner has filed this Writ Petition to forbear the respondents from taking over possession of the petitioner's house situated in Door Nos.18/163, Gandhi Nagar, Kangayam in S.No.561/2, Kangayam Village, Kangayam Taluk, Tiruppur District, to the extent of 5 cents, unless due process of law.

2. The learned counsel appearing for the petitioner has submitted that the petitioner is enjoying the house site, he constructed house after obtaining necessary permission from the local authority concerned. The first respondent has put up a board in the petitioner's land and threatening him that the land

belongs to the first respondent / temple and he should hand over the said house site with building to the first respondent. Hence, the petitioner has filed this Writ Petition with the aforesaid prayer.

3. The learned counsel for the first respondent has filed a detailed counter affidavit, wherein in paragraph 3(e), it has been stated that the petitioner has filed this Writ Petition without any cause of action as there is no threat of taking over the land of the petitioner in S.No.561/2 and it is only due to misconception of fact, while the respondent has put up the board only in respect of the lands belonging to the first respondent / Temple i.e., in S.No.561/1.

4. In view of the above said submission made by the first respondent in the counter affidavit and recording the aforesaid statement of the first respondent / Temple, this Court is inclined to dismiss the Writ Petition. Accordingly, the Writ Petition is dismissed. No Costs. Consequently, the connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar (CS-IV)

//True Copy//

Sub-Assistant Registrar

To

1. The Executive Officer,
Sivanmalai Subramaniya Swamy Temple,
Sivanmalai, Kangayam Taluk,
Tiruppur District.
2. The Tahsildar,
Kangayam Taluk, Kangayam,
Tiruppur District.

+1 CC to Mr. K. Ashok Kumar, Advocate sr 8600
+1 CC to Government Pleader sr 8939

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KSJ(CO)
sp/21/2