

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P.No.28752 of 2013
& M.P.No.1 of 2013

1. M.P.Periyasamy
2. P.Lakshmi

.. Petitioners

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 petitioners' house and house sites situated in Door Nos.18/150 and 18/151, Gandhi Nagar, Kangayam in S.No.561/2, Kangayam Village, Kangayam Taluk, Tiruppur District to the extent of each 27 1/9 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)

O R D E R

The petitioners have filed this Writ Petition to forbear the respondents from taking over possession of the petitioners' house and house sites situated in Door Nos.18/150 and 18/151, Gandhi Nagar, Kangayam in S.No.561/2, Kangayam Village, Kangayam Taluk, Tiruppur District to the extent of each 27 1/9 cents unless due process of law.

2. The learned counsel for the petitioners has submitted that the petitioners are enjoying the house site, they constructed house after obtaining necessary permission from the

local authority concerned. The first respondent has now putup a board in the petitioners' land and threatening them that the land belongs to the first respondent / temple and they should hand over the said house site with building to the first respondent. Hence, the petitioners have 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 petitioners have filed this Writ Petition without any cause of action as there is no threat of taking over the land of the petitioners in S.No.561/2 and it is only due to misconception of fact, while the respondent has putup 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 8599
+1 CC to Mr. C. Prakasam, Advocate sr 8632
+1 CC to Govt. Pleader sr 8940

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KJ(CO)
sp/21/2