

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2017

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

WRIT PETITION No.38799 of 2016

V.Kumaresan

... Petitioner

vs.

1. The Commissioner,
Hindu Religious and Charitable
Endowment Department,
Uthama Gandhi Road,
Chennai 600 034.
2. The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
Dr.Balasundaram Road,
Coimbatore.
3. The Assistant Commissioner,
Hindu Religious and Charitable
Endowment Department,
Thirupur.
4. The Executive Officer,
Vishweshwarasamy and
Veeraraghava Perumal Temple,
Nallur, Tiruppur District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus calling for the records pertaining to the impugned notice dated 13.08.2016, bearing Na.Ka.No.12-7/2016, issued by the 4th respondent and quash the same and consequently forbear the respondents herein from interfering with the petitioner's peaceful possession and enjoyment of the pathway in S.No.146/2, Nallur Village, measuring about 0.22 acres of land, without following the due process of law.

For Petitioner : Mr.Abrar Mohd. Abdullah
for Mr.V.P.K.Gowtham

For Respondents 1 to 3: Mr.M.Maharaja,
Special Govt. Pleader

O R D E R

The petitioner has come up with this Writ Petition seeking to quash the impugned notice dated 13.08.2016, bearing Na.Ka.No.12-7/2016, issued by the 4th respondent and for a consequential direction to forbear the respondents herein from interfering with his peaceful possession and enjoyment of the pathway in S.No.146/2, Nallur Village, measuring about 0.22 acres of land, without following the due process of law.

2. According to the petitioner, he and his wife had purchased a property measuring 2.35 cents comprised in S.No.146/2, Nallur Village vide two registered Sale Deeds bearing Document Nos.2739/2014 and 670/2014, respectively. On coming to know that the pathway for reaching the abovesaid land belongs to Vishweshwarasamy and Veeraraghava Perumal Temples, the petitioner immediately sent a representation dated 25.07.2015 to the respondents for fixing the fair rent for utilizing the pathway measuring 280 feet in length and 230 feet in breadth, totalling an extent of 2 ½ cents of land for reaching his property. While so, the respondent had issued a notice to the petitioner on 13.08.2016 stating that he should hand over possession of 0.22 acres of land used as pathway to his land, within 15 days. The petitioner sent a reply to the same on 27.08.2016 stating that he is not an encroacher and also sought to consider his application seeking fixation of fair rent. Since the 4th respondent is trying to interfere with the possession and enjoyment of the pathway, the petitioner is before this Court.

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

4. Learned counsel for the petitioner submitted that the respondents may be directed to consider the petitioner's reply dated 27.08.2016 to the impugned Notice.

5. In reply, learned Special Government Pleader appearing for the respondents pointed out that the petitioner has got an alternative pathway to reach his land.

6. In such view of the matter, without expressing any opinion on the merits of the case, this Court directs the respondents to consider the petitioner's reply dated 27.08.2016 on merits and in accordance with law and pass appropriate orders, within a period of two months from the date of receipt of a copy of this order.

This Writ Petition is disposed of with the above direction.
No costs. Consequently, connected W.M.P.Nos.33256 to 33258 of
2016 are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To:

1. The Commissioner,
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Uthama Gandhi Road, Chennai 600 034.
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Hindu Religious and Charitable Endowment Department,
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Vishweshwarasamy and Veeraraghava Perumal Temple,
Nallur, Tiruppur District.

+1 cc to Mr.V.P.K.Gowtham Advocate sr 4953
+1 cc to Government Pleader sr 4887

W.P.No.38799 of 2016

rk(co)
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