



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.07.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.1414 of 2014
and
W.M.P. (MD) .No.1 of 2014

Tamil Selvi

.. Petitioner

Vs.

1. The District Collector,
Ramanathapuram,
Ramanathapuram District.

2. The Commissioner
Rameswaram Municipality,
Ramaeswaram Town,
Remeswaram Taluk,
Ramanathapuram District.

3. The Joint Commissioner cum
Executive Officer,
Ramanthaswamy Temple,
Rameshwaram.

.. Respondents

R3 is suo motto impleaded vide Court order
dated 10.07.2017 in W.P(MD).No.1414/2014.

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records, pertaining to impugned order in Na.Ka.No.390/2012/A2 dated 21.01.2014 on the file of the second respondent and quash the same as illegal, unjust, unconstitutional without jurisdiction and consequently to forbear the respondents from evicting the petitioner from his house property in Survey No.615/3, in Agasthiyar Theertham, Rameswaram Town.

For petitioner : Mr.M.Hassanul Bazari

For Respondent 1 : Mr.M.Govindan

Special Government Pleader

For Respondent 2 : Mr.M.Kannan

For Respondent 3 : No Appearance



O R D E R

[Order of the Court was made by G.R.SWAMINATHAN, J.]

The Writ Petitioner questions the notice bearing Na.Ka.No.390/2012/A2, dated 21.01.2014 issued by the Commissioner, Rameswaram Municipality. The impugned order states that the writ petitioner has committed encroachment in Agastiyar Theertham that falls within Rameswaram Municipality.

2.The order is bad for two reasons, Firstly, it is in violation of the principles of natural justice. The order has been passed without issuing show cause notice to the Writ Petitioner. Secondly, the property in question admittedly belongs to the Rameswaram temple. That is why, we impleaded the Joint Commissioner cum Executive Officer, Ramanthaswamy Temple, Rameshwaram as the third respondent.

3.Since the impugned order has been issued by an authority, who has no jurisdiction, we quash the same. However, considering the public interest involved, we remit the matter to the file of the third respondent. The concerned authority of the Hindu Religious and Charitable Endowment Department shall take steps in accordance with law and remove the encroachment said to have been committed by the writ petitioner. Of course, the said authority of Hindu Religious and Charitable Endowment Department will follow due process and only thereafter remove the encroachment, if any committed by the writ petitioner.

4.With these directions the writ petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (Crl.side)

/True Copy/

Sub Assistant Registrar

To:

1. The District Collector,
Ramanathapuram,
Ramanathapuram District.
2. The Commissioner
Rameswaram Municipality,
Rameswaram Town,
Rameswaram Taluk,
Ramanathapuram District.



3. The Joint Commissioner cum
Executive Officer,
Ramanthaswamy Temple,
Rameshwaram.

+ 1 CC TO Mr.M.KANNAN, ADVOCATE IN SR No. 67838
+ 1 CC TO Mr.J.M.HASSANUL BAZARI, ADVOCATE IN SR No. 68410
+ 1 CC TO Mr.V.RAGHAVACHARI, ADVOCATE IN SR No. 68140

SSS

TE/MR-KKR/SAR-II : 24/08/2017 : 3P/7C

ORDER MADE IN
W.P.(MD)No.1414 of 2014 and
W.M.P.(MD).No.1 of 2014
26.07.2017