



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2017

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THE HON'BLE MR.JUSTICE M.M.SUNDRESH
AND
THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

W.A.(MD)No.872 of 2017
and
C.M.P(MD)No.5822 of 2017

Ubamanaganeri
Tiruchendhur Subramaniasamy Kovil Trust,
Rep by the Executive President,
T.Paramachandran,
S/o.Thiraviam Nadar,
36/18, Keelatheru,
Vadalivilai, Kottar,
Nagercoil, Kanyakumari District. ... Appellant/Petitioner

Vs.

1. The Commissioner,
Hindu Religious and Charitable Endowments
Department, Nungambakkam, Chennai.
2. The District Collector,
Kanyakumari District at Nagercoil.
3. The Joint Commissioner,
Arulmigu Subramaniya Samy Thirukovil,
Thiruchendur,
Thoothukudi District.
4. The Inspector of Police,
Kottar Police Station,
Kanyakumari District. ... Respondents

Writ Appeal filed under Clause 15 of Letter Patent against the order passed by this Court in W.P.(MD)No.9427 of 2014 dated 14.08.2014.

Prayer in WP(MD). 9427/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus forbearing the respondents 1,3 and 4 from interfering petitioners possession over the property comprised in Survey No. M4/20/2,3,4,5,6,7 of Vadeeswaram Village, Agadeeswaram Tk,



Kanyakumari District and consequently direct the respondents 1 to 3 permit the petitioner to do Annadhanam as earlier on the 8th day of Masi festival of Tiruchendur Subramaniya Samy Temple.

For Appellant

: Mr.K.P.Narayanakumar

For Respondents 1, 2 & 4 : Mr.VR.Shanmuganathan,

Special Government Pleader

For 3rd Respondent

: Mr.M.Muthugeethayan

JUDGMENT

(Judgment of the Court was delivered by M.M.SUNDRESH, J)

This appeal has been preferred by the appellant being aggrieved over the order by the learned Single Judge, by which, the writ petition filed by the petitioner was dismissed, by noting that there are disputed question of facts.

2.The learned Single Judge incidentally raised serious doubts over the registration of the trust, vesting of properties and execution of sale deed without registration.

3.The learned counsel appearing for the appellant would submit that the appellant is the owner of the property and it is sought to be dispossessed without following the process of law.

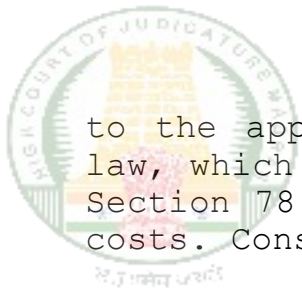
4.The learned counsel appearing for the third respondent would submit that the finding rendered by the learned Single Judge was borne by the records. The appellant is canvassing the case on behalf of his alleged tenants and by using Rs.25/- stamp papers the properties belonging to Arulmigu Subramaniasamy temple, Thiruchendur have been sold. Now notices have been issued to the encroachers under Section 78 of H.R. & C.E. Act, 1959. These notices are sent through their counsel informing the encroachers to hand over possession of the property, failing which action would lie.

5.We do not find any error in the order passed by the learned Single Judge. The appellant seeks adjudication of his title in the writ petition. Even on a prima-facie consideration, the learned Single Judge did not find anything in favour of the appellant. If the appellant wants a comprehensive relief, his remedy lies elsewhere.

6.In such view of the matter, we are not inclined to interfere with the order of the learned Single Judge. However, we clarify that the observation made by the learned Single Judge is only prima facie in nature as it has held that disputed facts cannot be gone into.

<https://hcservices.ecourts.gov.in/hcservices/>

7.Accordingly, this Writ Appeal is disposed of with liberty



to the appellant to work out their remedy in the manner known to law, which can only be under the statute after an adjudication under Section 78 of the Hindu Religious and Charitable Endowments Act. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar (P&A)

/True Copy/

Sub Assistant Registrar

To

1. The Commissioner,
Hindu Religious and Charitable Endowments
Department, Nungambakkam, Chennai.
2. The District Collector,
Kanyakumari District at Nagercoil.
3. The Inspector of Police,
Kottar Police Station,
Kanyakumari District.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 65002
+ 1 CC TO Mr.M.MUTHU GEETHAIYAN, ADVOCATE IN SR No. 64663
+ 1 CC TO Mr.K.P.NARAYANAKUMAR, ADVOCATE IN SR No. 65016

RMI/SJ

TE/MR-KKR/SAR-II : 28/07/2017 : 3P/7C

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C.M.P(MD)No.5822 of 2017
11.07.2017