



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 13.07.2017
CORAM:

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

W.P (MD) No.1989 of 2017

A/m Mariamman Temple,
Represented through its
Trustee P.Maragatham,
163, Alagar Koil Main Road,
Tallakulam Out Post,
Madurai-625 002.

.. Petitioner

Vs.

1.The District Collector,
Madurai.

2.The Revenue Divisional Officer,
Madurai.

3.The Tahsildar,
North Taluk,
Madurai.

4.Velu @ Sundararajan,

5.Subbuthai

6.Alagammal

7.Easwari

8.Manikandan

9.Pitchaimuthu

10.Ashokan

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the respondents 1 to 3 to take necessary action for removal of the encroachments made by the respondents 4 to 10 in the properties comprised in S.No.938/1, 938/2, Alagar Koil Road, Madurai, classified as Temple poromboke" belonging to Arulmigu Mariamman Temple, Tallakulam, Madurai.

For petitioner

For R1 to R3

: Mr.R.G.Shankar Ganesh

: Mr.M.Govindan

Special Government Pleader

For Respondent No.4

: Ms.N.Juliet Latha

For Respondent No.5

: Mr.S.Pon Senthilkumaran



For Respondent No.6 : Mr.J.R.Subramanian
For R7 to R10 : Ms.K.Abiya

O R D E R

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[Order of the Court was made by K.K.SASIDHARAN, J.]

The petitioner filed this writ petition directing the respondents 1 to 3 to evict the respondents 4 to 10 terming them as encroachers of the land in survey Nos.938/1, 938/2, Alagar Kovil Road, Madurai classified as temple poromboke.

2. It is the case of the petitioner that the property referred to above absolutely belongs to Arulmigu Mariamman Temple, Tallakulam, Madurai and it is classified as poromboke.

3. According to the petitioner, the respondents 4 to 10 without any semblance of right made encroachment in respect of a temple property and as such they are liable to be evicted.

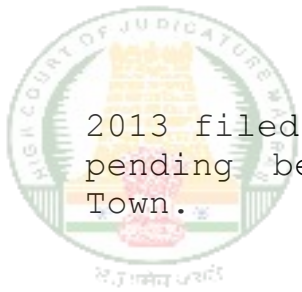
4. The learned Counsel for the 6th respondent contended that the 6th respondent has already filed a civil suit in O.S.No.315 of 2013, before the learned Principal District Munsif, Madurai Town, for declaration and injunction. The petitioner is a party in the said suit. Since the suit is pending, it is not open to the petitioner to file a writ petition for eviction.

5. The learned Counsel for the respondents 7 to 10 contended that the predecessor interest of the petitioner earlier filed a suit for declaration and injunction in O.S.No.193 of 2004, on the file of the District Munsif, Madurai Taluk. The said suit was dismissed as abated. The present attempt by the daughter of the plaintiff in O.S.No.193 of 2004 is to give a new life to the said suit.

6. We have also heard the learned Counsel for the respondents 1 to 3.

7. The petitioner has come up with this writ petition with an allegation that the respondents 5 to 10 are in unauthorised occupation of the temple land. The predecessor interest of the petitioner earlier filed a civil suit in O.S.No.193 of 2004 before the learned District Munsif, Madurai Taluk, for declaration and injunction. The schedule of property is one and the same, in the suit and the present writ petition. The suit was dismissed as abated.

<https://hcservices.ecourts.gov.in/hcservices>
8. The proper course available to the petitioner is only to prosecute the said suit or to file a fresh suit after obtaining leave from the Court. Moreover, another suit in O.S.No.315 of



2013 filed by the 6th respondent for declaration and injunction, is pending before the learned Principal District Munsif, Madurai Town.

9. In view of the earlier suit in O.S.No.193 of 2004 and the pending suit in O.S.No.315 of 2013, we are of the view that the petitioner has not made out a case for issuance of a writ of mandamus.

10. We therefore dismiss the writ petition giving liberty to the petitioner to adjudicate the right claimed by the temple before the Civil Court in O.S.No.315 of 2013. No costs.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub-Assistant Registrar

To:

1.The District Collector,
Madurai District,
Madurai.

2.The Revenue Divisional Officer,
Madurai.

3.The Tahsildar,
North Taluk,
Madurai.

+One cc to Mr.T.R.Subramanian, Advocate, SR.No.65362

+One cc to Mr.S.Pon Senthilkumaran, Advocate, SR.No.65481

+4 ccs to M/s.K.Abiya, Advocate, SR.No.65516

+One cc to The Special Government Pleader, SR.No.66078

rj2/tsg

RL/11c/3P/KK/SAR1/26/7/2017

ORDER MADE IN