

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02-11-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.10067 of 2013

And

M.P.No.1 of 2013

S.Saraswathi

.. Petitioner

..Vs..

1.The Commissioner,
Hindu Religious and Endowment Act,
Chennai-34.

2.The Executive Officer,
Sri Ramabaktha Anjinaya Swami Thirukoil,
Kalvoy, Chengalpattu,
Kancheepuram District.

3.The District Collector,
Kancheepuram District,
Kancheepuram.

(R-3 suo motu impleaded as per order
of Court dated 23.10.2018 in
WP No.10067 of 2013)

.. Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus, forbearing the respondents, their men, agent, servants and persons claiming through them from evicting and/or disturbing the possession of the petitioner from his property consisting of superstructure and land comprised in Survey No.263/3 at No.48, Kalvoy Village, Chengalpattu, Kancheepuram District.

For Petitioner : Dr.C.Ravichandran

For Respondents-1&2 : Mr.M.Maha Raja,
Special Government Pleader (HR&CE).

For Respondent-3 : Mr.R.S.Selvam,
Government Advocate.

O R D E R

The relief sought for in the present writ petition is for a direction to forbear the respondents, their men, agents, servants and persons claiming through them from evicting and/or disturbing the possession of the petitioner from her property consisting of superstructure and land comprised in Survey No.263/3 at No.48, Kalvoy Village, Chengalpattu, Kancheepuram District.

2. The writ petitioner states that she is the owner-occupier of the property admeasuring 10 cents comprised in Survey No.263/3 at No.48, Kalvoy Village, Chengalpattu, Kancheepuram District. The writ petitioner had put up two shops in that land and had been paying property tax for the said property for the past 15 years. However, the writ petitioner admits that the said land is classified as "Meichal Poramboke" (Grazing Land).

3. The husband of the writ petitioner received a letter dated 14.9.2012 from the first respondent stating that the writ petitioner and her husband were encroachers of the said land which belonged to the temple. In the nearby property, there is a temple called "Sri Ramabaktha Anjinaya Swami Thirukoil". The respondents were under wrong impression that the writ petitioner has encroached the temple land without considering the fact that the property under the possession of the writ petitioner is classified as "Meichal Poramboke" (Grazing Land). The second respondent along with their staff members came to the premises of the writ petitioner on 8.3.2013 and threatened the writ petitioner to evict the property immediately. On account of such action of the second respondent, the writ petitioner is constrained to move the present writ petition.

4. The learned Government Advocate, appearing on behalf of the third respondent, made a submission that the property in question is classified as "Meichal Poramboke" (Grazing Land) and therefore, the writ petitioner is an encroacher. Relying on the revenue documents, the learned Government Advocate informed this Court that the writ petitioner has no right over the property as the same is classified as "Meichal Poramboke" and the same belongs to the Government. Thus, the very relief, as such, sought for in the present writ petition cannot be granted.

5. This Court is of an opinion that the Government Poramboke lands are to be protected in all respects for the purpose of the benefit of the public at large. Encroachments in public lands are to be dealt with in accordance with the procedures contemplated under the provisions of the Tamil Nadu

Land Encroachments Act, 1905. Even as per the admission of the writ petitioner, the land in question is classified as "Meichal Poramboke" (Grazing Land). Therefore, the writ petitioner cannot claim any right over the property and the writ petitioner is liable to be evicted by following the procedures contemplated under the Tamil Nadu Land Encroachments Act, 1905.

6. Under these circumstances, the respondents are directed to initiate action against all such encroachers in the near by place also and by following the procedures, the encroachers are to be evicted and the Government properties are to be kept open for the public usage and for implementation of the Welfare Schemes.

7. The Authorities Competent are bound to protect the Government lands and the Government properties for the welfare of the public and for the purpose of implementation of the Government Schemes. It is not as if the authorities can remove one encroacher pursuant to the orders of this Court and leave all other encroachers for the benefit of the encroachers. It is duty mandatory on the part of the Revenue Officials to ensure that the public properties are to be protected in all respects and the encroachments are to be removed by following the procedures contemplated under law. Thus, the third respondent is directed to identify all such encroachments in that locality and evict the encroachers by following the procedures contemplated under the Land Encroachments Act, 1905.

8. With the above directions, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

Svn

To

1.The Commissioner,
Hindu Religious and Endowment Act,
Chennai-34.

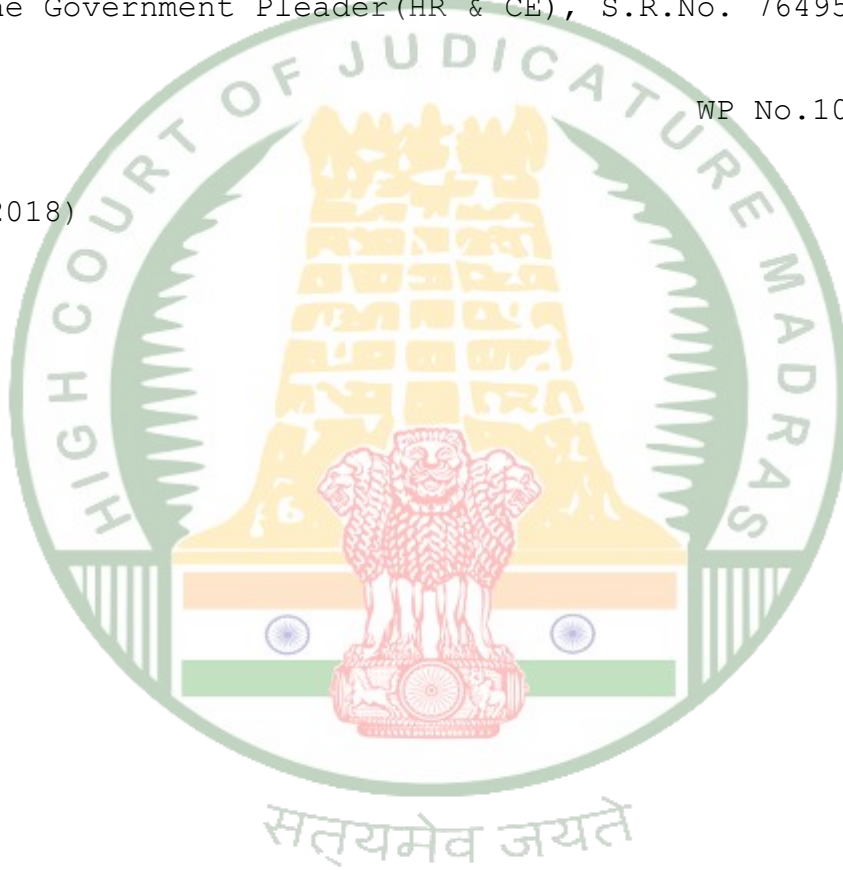
2.The Executive Officer,
Sri Ramabaktha Anjinaya Swami Thirukoil,
Kalvoy, Chengalpattu,
Kancheepuram District.

3.The District Collector,
Kancheepuram District,
Kancheepuram.

+lcc to Dr.L.Ravichandran, Advocate, S.R.No. 75813
+lcc to the Special Government Pleader, S.R.No. 76341
+lcc to the Government Pleader(HR & CE), S.R.No. 76495

WP No.10067 of 2013

NRI (CO)
GN(28/11/2018)



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