

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.7374 of 2018

and

WMP.No.9156 of 2018

C.M.Annamalai

S/o.Late C.P.Muthusamy Gounder

... Petitioner

Vs.

1.The Joint Commissioner
HR & CE Department,
Coimbatore Division,
Dr.Balasundaram Road,
Coimbatore-18.

2.The Executive Officer
A/m.Lakshmi Narasimmasamy Temple
South Ukkadam, Coimbatore.

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the entire records pertaining to the impugned proceedings in MP.No.10/2018/A1 initiated through notice dated 01.02.2018 on the file of the 1st respondent and quash the same.

For Petitioner: Mr.V.Srikanth

For Respondents: Mr.M.Maharaja

Special Government Pleader
for R1 & R2

O R D E R

Mr.M.Maharaja, learned Special Government Pleader takes notice for the respondents 1 and 2. By consent of the parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. This writ petition is filed challenging the proceedings of the first respondent dated 01.02.2018, which is nothing but a notice calling upon the petitioner to appear for an enquiry.

3. It is seen that in the impugned notice, the first respondent has claimed that the petitioner is an encroacher in the property belonging to the Temple. Therefore, the first respondent wanted to proceed under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowment Act against the petitioner. On the other hand, it is contended by the petitioner that he is not an encroacher, but he is a cultivating tenant under the second respondent Temple, as successor in interest, in pursuant to the death of his father, who was the cultivating tenant and his name was also registered in such capacity before the concerned officer, namely the Record Officer. It is further contended by the petitioner that he has already made an application before the Record Officer to replace his name as cultivating tenant in the place of his father, and the said application is still pending. Under such circumstances, the petitioner has filed the present writ petition by questioning the present impugned proceedings.

4. It is further seen that this Court today passed a separate order in WP.No.7384 of 2018, directing the Record Officer to consider the application filed by the petitioner in R.P.No.7 of 2012 and pass orders on the same on merits and in accordance with law, wherein the petitioner sought for recording his name as cultivating tenant. Since the said writ petition was ordered as stated supra, I am of the view that the first respondent can defer the proceeding dated 01.02.2018, till an order is passed by the said Record Officer in the application filed by the petitioner in R.P.No.7 of 2012. Accordingly, without expressing any view on the merits of the matter, this writ petition is disposed of, by directing the first respondent to defer the proceedings in pursuant to the notice dated 01.02.2018 and granting liberty to either parties to revive the matter afresh, after an order is passed in R.P.No.7 of 2012. No costs. Consequently, connected miscellaneous petition is closed.

s/d-

Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

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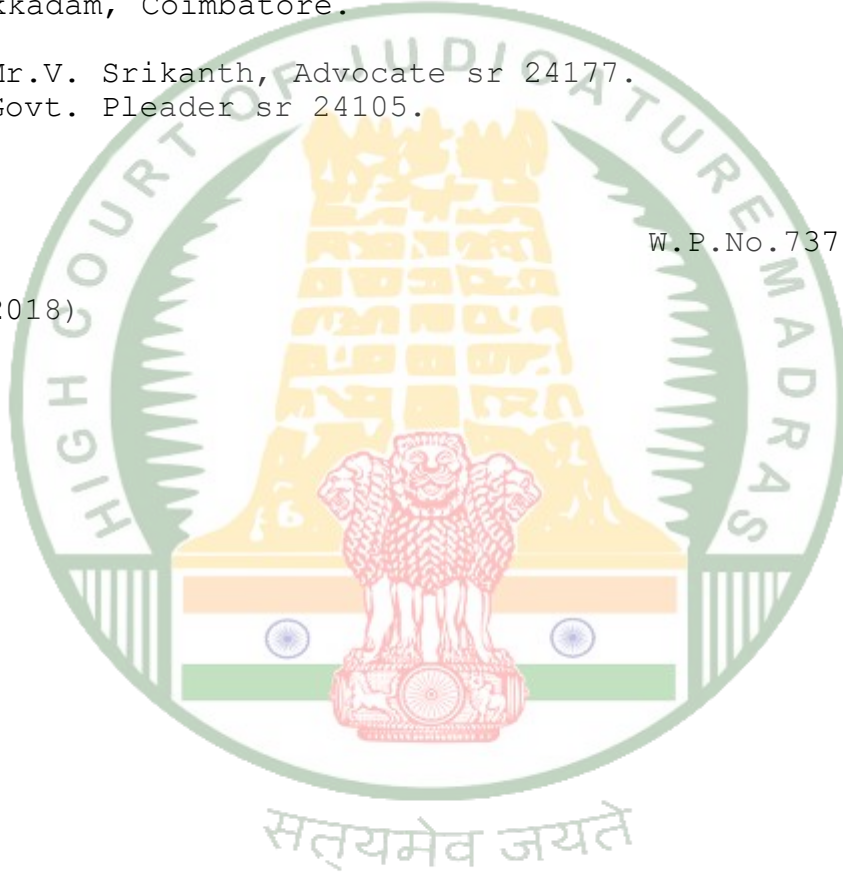
1.The Joint Commissioner
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+1 CC to Mr.V. Srikanth, Advocate sr 24177.
+1 CC to Govt. Pleader sr 24105.

W.P.No.7374 of 2018

SP(10/04/2018)



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