

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :22.10.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.9491 of 2013

J.Sivakami

..Petitioner

vs

1.The Joint Commissioner,
Hindu Religious and Charitable Endowment
Department,
Bala Sundaram Road,
Cantonment,
Coimbatore - 641 018.

2.The Executive Officer,
Koopedu Vinayakar Temple,
Avinashi Road,
Coimbatore.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in Auction cum tender Notice dated 26.03.2013 issued by the 2nd respondent by e-mail and quash the same and directing the respondents not to interfere with the peaceful possession and enjoyment of the schedule mentioned property.

For Petitioner : Mr.S.N.Amarnath

For Respondents : Mr.M.Maharaja, Spl GP
(HR & CE) for R1

M/s.V.S.Usha Rani for R2

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O R D E R

The Auction Notice dated 26.03.2013 in respect of the vacant land belongs to the 2nd respondent Temple is under challenge in this writ petition.

2.The petitioner claims that the property belong to the family of the writ petitioner. The property originally belonged to Betta Gowder and he had two sons namely Lakshmana Gowde and Muthu Gowde. Mr.Muthu Gowde died leaving behind Ramae Gowda, who got named and died issue less Lakshmana Gowder had three sons namely, Batte Gowda, Venkatasamy and Raja Krishnan Lakshmana Gowde died leaving his widow and his sons.

3.It is stated that prior to the purchase of the property in the year 1933, the property, which was leased out from time to time and in the year 1936, Batte Gowda, who purchased the property and executed a lease in the year 1938 in favour of Mr.P.A.Raju Chettior for running a theatre.

4.At the outset, the petitioner claims that they are the owners of the land, which is in question. Therefore, the respondents has no authority to issue the impugned Auction Notice.

5.The learned counsel appearing on behalf of the respondents disputed the contentions by stating that the 2nd respondent Temple is the owner of the land and the same was in illegal occupation of some third parties. Initially a lease was granted by the then Dharmakarthha for a period of 20 years and after the expiry of the lease period, the lessee refused to vacate the premises and pursuant to the actions initiated by the Department by filing O.S.No.426 of 1976, the property came under the possession of the 2nd respondent Temple.

6.The learned counsel for the respondents informed this Court that the property is now in possession and enjoyment of the 2nd respondent Temple and pursuant to the Auction Notification, the property is in usage and more specifically, for the purpose of parking the vehicle in the entire area.

7.This Court is of an opinion that if at all, the petitioner claims any title or ownership, it is left open to them to approach the competent Civil Court of law by producing original documents and by adducing evidences. However, such disputed facts in relation to title, ownership or possession can never be decided in a writ jurisdiction under Article 226 of the Constitution of India.

8.The learned counsel for the respondents informed this Court that the property belongs to the 2nd respondent and now, the property is in possession and enjoyment of the 2nd respondent Temple and leased out for the purpose of parking the vehicle.

9.This being the factum of the case, the said status now prevailing cannot be disturbed as the 2nd respondent Temple claims ownership.

10.In this view of the matter, the writ petitioner has not established any legal right, so as to interfere with the Auction Notice issued by the respondents and therefore, the writ petition stands dismissed. However, there shall be no order to costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Joint Commissioner,
Hindu Religious and Charitable Endowment
Department,
Bala Sundaram Road,
Cantonement,
Coimbatore - 641 018.

+1cc to M/s.V.S.Usha Rani, Advocate Sr.No.71858

RRS (CO)
CSL/08.11.2018

W.P.No.9491 of 2013

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