

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 25.01.2018

Coram

THE HONOURABLE Mr. JUSTICE M.VENUGOPAL
AND
THE HONOURABLE Mr. JUSTICE S.VAIDYANATHAN

W.P.No.34097 of 2017 and
W.M.P.No.37851 of 2017

G.Gurusamy @ Appu
The Priest of Kottai Palayathamman
Thirukoil, Rajaji Salai,
Opp. to RBI & Secretariat,
Chennai - 600 009 ... Petitioner

Vs.

1. The District Revenue Officer,
Chennai District, Rajaji Salai,
Chennai - 600 001
2. The Tahsildar,
Purasaiwalkam Taluk,
Chennai - 600 003 ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Mandamus forbearing the respondents 1 and 2 herein from illegally demolishing or evicting the petitioner's temple, i.e., Kottai Palayathamman Thirukoil, Rajaji Salai, Opp to RBI and Secretariat, Chennai - 600 009 without affording to due process.

For Petitioner : Mr.B.Ganesha Moorthy

For Respondents : Mr.A.N.Thambidurai
Special Government Pleader

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O R D E R

[Order of the Court was made by S.VAIDYANATHAN, J.]

The petitioner, who is a priest in Kottai Palayathamman Thirukoil, Chennai has come forward with this Writ Petition seeking aforementioned prayer.

2. According to the petitioner, he is a priest of Kottai Palayathamman Thirukoil, Chennai - 600 009 and the temple is in existence for the last 50 years. Moreover, the petitioner has been conducting poojas, religious celebrations and temple festivals during the last 50 years. Further, the land in which the temple was constructed belongs to Government. In the above said temple compound, Om Sarva Sakthi Sai Alayam is also constructed and though more than 500 devotees are regularly participating in the poojas, prayers and festivals, on 21.12.2017, the 2nd respondent came to the temple, took measurement and when this was questioned, it was informed that the temple is going to be demolished and that they are going to evict the Petitioner. Since the Petitioner's Temple is situated in Survey No.R.S.11735/1 of V.O.C.Nagar village and the same is classified as 'Government Revenue Land', it is the stand of the petitioner that even assuming the petitioner is termed as encroacher of the government land, they should not be drawn out arbitrarily. It is the contention of the petitioner that the action of the respondent is in violation of the principles of natural justice and that as per the Land Encroachment Act, the public authorities have to issue Notice under Section 7 of the Act, by giving sufficient opportunity to give explanation and only after considering the objection of the petitioner only, order of eviction under Section 6 of the Act, has to be ordered.

3. Even though no counter has been filed, it is represented by the learned Special Government Pleader for the respondents that the temple is situated just opposite to Secretariat and that the land belongs to Government. Since it is a temple, which is got to be removed from the government encroached land, it was informed to the petitioner that police bandobast has been sought for eviction. It is further submitted that as the petitioner has no right to own a temple in the government place, the petitioner was given intimation and only thereafter, action has been initiated. The petitioner has violated the Rules, therefore, he cannot complain about prejudice.

4. Heard the learned counsel on either side and perused the documents available on record.

5. A mere glance of the photographs produced by the petitioner would make it very clear that in the Government land, temple has been constructed. The petitioner has admitted that R.S.No.11735/1, in which the temple is situated, is a Government Revenue Land. It is also submitted that the temple is in existence in the said place for more than 50 years. The question of 'principles of natural justice' will not be applicable to a person, who has violated the Rules and

encroached the government land. That apart, notice is contemplated only to enable the encroacher to get away from the place of encroachment and not otherwise. In this connection, as stated and admitted by the petitioner, the temple land is classified as Government Revenue Land. Instead of vacating the place, the petitioner has approached this Court and obtained an Interim Order. Any person including a Priest, having encroached a Government land under the guise that a place of worship is situated there, cannot be allowed to stay in the said place.

6. We are reminded of an incident in Puranas, with regard to Bhakta Prahalada, an ardent devotee of Lord Vishnu, who, when questioned by his father, as to 'where God is', answered that 'God is omnipresent' (கடவுள் துணிலும் இருப்பார், துரும்பிலும் இருப்பார்) / God has never sought a place muchless an encroached area. If a person intends to build a Temple for a deity, he should ensure that such construction is an authorized one. Any person, who has devotion to the deity, will not raise an unauthorised construction, leaving it open to the authorities to raze it to the ground. People are constructing Temples on the road side, of course, mostly by encroaching public land, only to get fringe benefits.

7. For the reasons mentioned above, this Court, is of the view that the decision taken by the respondents to remove the temple and evict the petitioner with the help of police cannot be found fault with. Moreover, the violator cannot contend about the violation of principles of natural justice and the respondents are directed to evict the encroachers and remove the temple within a period of 15 days from the date of receipt of a copy of the order.

With the above observations and directions, this Writ Petition is dismissed. The Interim Injunction already granted by this Court on 28.12.2017 is vacated and consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Deputy Registrar

//True Copy//

Sub Assistant Registrar

ssd

To

1. The District Revenue Officer,
Chennai District, Rajaji Salai,
Chennai - 600 001
2. The Tahsildar,
Purasaiwalkam Taluk,
Chennai - 600 003

+1cc to Mr.B.Ganesha Moorthy, Advocate, S.R.No.6146
+1cc to the Government Pleader, S.R.No.9419

W.P.No.34097 of 2017 and
W.M.P.No.37851 of 2017

RRK(20/02/2018)



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