

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.08.2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.23989 of 2017
and WMP.No.25297 of 2017

1.Sambasivam
2.S.Mahadevan

...Petitioners

...Vs...

1.The Commissioner,
Hindu Religious and
Charitable Endowment Department,
Nungambakkam,
Chennai 600 034.

2.The Assistant Commissioner,
Hindu Religious and
Charitable Endowment Department,
Kancheepuram.

3.The Joint Commissioner,
Hindu Religious and
Charitable Endowment Department,
Vellore-9.

4.K.ChengalvarayaGurukkal,

...Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue Writ of Mandamus forbearing the respondents and its officials from in any way letting out the property of the Arulmigu Santhaleeswarar Thirukoil in S.No.277/2, Chinna Kancheepuram, Kancheepuram District to an extent of one acre without following the due process of law, affecting the rights of petitioners as cultivating tenants.

For Petitioners : Mr.N.C.Ashok Kumar

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

for R1 to R3

:Mr.K.Chandra Mohan for R4

O R D E R

The relief sought for in this writ petition is to forbear the respondents and its officials from in any way letting out the property of the Arulmigu Santhaleeswarar Thirukoil in S.No.277/2, Chinna Kancheepuram, Kancheepuram District.

2. The very relief as such sought for shows that the writ petitioner has to establish his legal right in respect of the temple property.

3. The learned counsel appearing for the petitioner strenuously contended that the Arulmigu Santhaleeswarar Thirukoil is an ancient temple coming under the administrative control of the Hindu Religious and Charitable Endowment Department, which took the temple administration as early as on 1963. The hereditary trustees of the temple are administering the day to day affairs of the administration and the HR & CE department is supervising the management of the temple. The said temple owned a landed property at Kanchipuram to an extent of 5 acres and 34 cents in S.No.277/1, 277/2. The petitioner claims that he is the cultivating tenant of the properties of the Arulmigu Santhaleeswarar Thirukoil, Chinnakancheepuram in S.No.277/2 to an extent of 1 acre of land. The petitioner states that his father was originally cultivating the said land and the same had been recognized by the temple authorities and his father was considered as cultivating tenant in respect of the property described. The petitioner inherited the right of his father and continuing to cultivate the said land.

4. The learned counsel appearing for the petitioner states that the 4th respondent is attempting to transfer the rights conferred on the petitioner in his capacity as cultivating tenant. Thus, the writ petitioner is constrained to move the present writ petition. In other words, the 4th respondent is having some personal motive against the writ petitioner and attempting to part with the land in favour of some other third party and during that course, dispute arise between the petitioner and the 4th respondent and therefore, the petitioner is constrained to move this Court by way of the present writ petition.

5. The learned counsel appearing for the 4th respondent/temple opposed the contention raised on behalf of the writ petitioner by stating that the writ petitioner is not a cultivating tenant nor a lease holder in accordance with the provisions of the Tamil Nadu Hindu Religious and Endowment Act, 1959 and there is no cultivation as of now in respect of the land in occupation of the writ petitioner. Therefore, the writ petitioner has no locus standi to file the present writ

petition. If the writ petitioner claims any civil rights, he has to approach the competent civil Court of law and no writ petition can be entertained in respect of the claim now set out in the present writ petition.

6. The learned Special Government Pleader appearing for the HR & CE department contested the matter by stating that the writ petitioner is neither a Lease Holder nor a cultivating tenant and he further produced a photograph showing that the writ petitioner by taking advantage of his long possession is misusing the temple properties and there is no actual cultivation of that land and in fact certain plaintain trees are grown in that locality. In all respects, the writ petitioner is abusing the property belongs to the temple in an illegal manner. The competent authorities under the HR & CE Act had not conferred any right in favour of the writ petitioner in accordance with the provisions of the Act. In other words, no lease under the provisions of the Act was granted in favour of the petitioner. Thus, the writ petitioner is not entitled for any relief.

7. The learned Special Government Pleader further contented that the 4th respondent temple also has not made any complaint in this regard to the competent authorities of the HR & CE Department and in the event of submitting any such complaint by the 4th respondent, appropriate action would have been taken.

8. This Court is of an opinion that a formal complaint may not be required. As far as the HR & CE Department is concerned, the scope of the Act is wide in nature. If there is any fraudulent activities or abuse or otherwise, in respect of the temple properties, the authorities competent of their own can initiate action and settle the matter in accordance with law. Therefore, they need not await for any formal complaint from anybody. When informations are received by the competent authority of the HR & CE Department, they are empowered to call for the records or conduct inspection in respect of the administration or other activities of the Temple and initiate appropriate action in accordance with law by following the procedures contemplated. This being the legal position, the authorities of the HR & CE Department ought not to have awaited for the complaint to be submitted by the 4th respondent. The said complaint is a formal one and in the absence of any complaint also, the authorities are empowered to initiate action if they have received any information that the temple properties are misused or abused or dealt with fraudulently.

9. In the present case on hand, the writ petitioner is unable to establish that he is the lawful lease holder and there is no lease executed in favour of the writ petitioner by the

competent authorities of the HR & CE Department.

10. Admittedly there is a dispute between the temple Management and the writ petitioner in respect of the property described in the present writ petition. Thus all along the petitioner had developed a dispute with the 4th respondent Temple, and transfer of the property belongs to the Temple in favour of some other third party, prompted the writ petitioner to move the present writ petition. Therefore, there is a dispute between the writ petitioner and the 4th respondent and now the HR & CE Department is aware of all these disputes. Thus, they are bound to initiate action in accordance with law and protect the properties belong to the Temple. This apart, the competent authorities have to conduct inspection in respect of the temple to findout the irregularity or otherwise in the Management and administration and verify the jewelleries under lock and key and all other items in the temple and also the property belongs to the temple and take action in accordance with the provisions of the Act and suitable action against all the persons concerned. If any maladministration is found in respect of the Temple administration, all suitable actions are to be taken in accordance with law and if necessary, by initiating criminal prosecution against the persons, who have involved in such illegalities.

11. As far as the writ petitioner is concerned, this Court is of an opinion that he is neither a leaseholder nor having any lawful right to continue in respect of the temple property. Thus, the respondents 1 to 3 are bound to initiate appropriate action under the provisions of the Act to evict the petitioner and there after deal with the property in accordance with the Act for the welfare of the temple and to generate more funds to the temple activities. In this view of the matter, the respondents 1 to 3 are directed to evict the writ petitioner from the premises, which is under the occupation of the writ petitioner within a period of four weeks from the date of receipt of a copy of this order and thereafter issue notification for open auction or utilize the property for the welfare of the temple in the manner known to law.

12. The writ petition stands dismissed with the above directions. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Deputy Registrar

//True Copy//

Sub Assistant Registrar

tta/sk

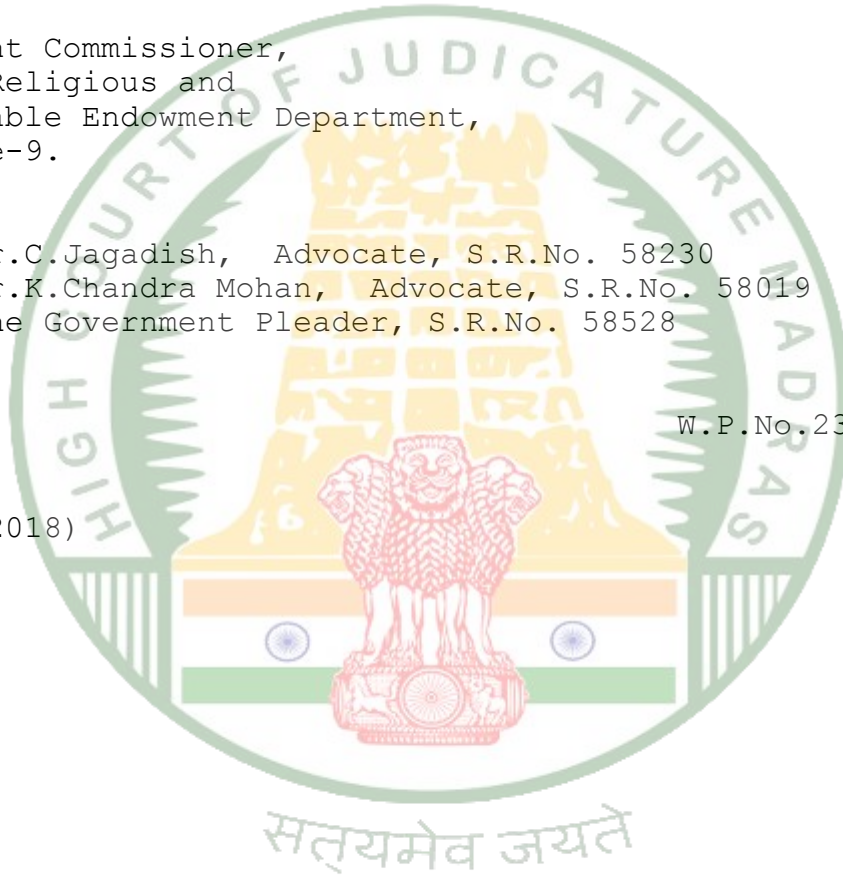
To

- 1.The Commissioner,
Hindu Religious and
Charitable Endowment Department,
Nungambakkam, Chennai 600 034.
- 2.The Assistant Commissioner,
Hindu Religious and
Charitable Endowment Department,
Kancheepuram.
- 3.The Joint Commissioner,
Hindu Religious and
Charitable Endowment Department,
Vellore-9.

+1cc to Mr.C.Jagadish, Advocate, S.R.No. 58230
+1cc to Mr.K.Chandra Mohan, Advocate, S.R.No. 58019
+1cc to the Government Pleader, S.R.No. 58528

W.P.No.23989 of 2017

GN(12/09/2018)



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