

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.04.2018

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

W.P.No.15418 of 2014

and

M.P.No.1 of 2014

- 1.Maadhu
- 2.Gaurappan
- 3.Madhappan

...Petitioners

Vs

- 1.Joint Commissioner,
Hindu Religious and Charitable Endowment (HR & CE)
Near Old bus stand,
Salem.
- 2.Assistant Commissioner,
Hindu Religious and Charitable Endowment (HR & CE)
Pennagaram road,
Dharmapuri.
- 3.Inspector,
Hindu Religious and Charitable Endowment (HR & CE)
Palacode Post and Taluk,
Dharmapuri.

...Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India to issue of Writ of Mandamus, forbearing the respondents from in any way bringing the property in Survey No.194, Vengilikanapalli village of an extent of 8.05 acres, Krishnagiri taluk and District by way of public auction on 16.06.2014 or on any subsequent dates, without due process of law.

For Petitioners: M/s.V.Rameshvel

For Respondents: Mr.M.Maharaja, Spl GP(HR & CE)
for R1 to R3

O R D E R

The relief sought for in this writ petition is to forbear the respondents from in any way bringing the property in Survey No.194, Vengilikanapalli village of an extent of 8.05 acres, Krishnagiri taluk and District by way of public auction on 16.06.2014.

2.The learned counsel appearing on behalf of the writ petitioners state that the impugned auction notice dated 05.06.2014 issued by the 3rd respondent is in violation of the provisions of the Hindu Religious and Charitable Endowment Act [hereinafter referred as "HR & CE Act" or the Act] itself. The respondents had not followed the procedures as contemplated under the Act and Rules. Contrarily, they have taken an unilateral action by issuing the auction notice to auction the properties, wherein the writ petitioners are in possession.

3.The learned Special Government Pleader(HR & CE) appearing on behalf of the respondents is of an opinion that the property in question, belongs to the temple and the temple is now administering the property and the possession has already been taken over. However, this Court is of an opinion that the auction notice issued by the 3rd respondent on 05.06.2014 cannot be now acted upon after a lapse of three years. The auction scheduled to be conducted in the year 2014, cannot be now proceeded with. However, the learned Special Government Pleader (HR & CE) brought to the notice of this Court that the property belongs to the temple and the temple is administering the said property.

4.The learned counsel for the petitioner opposed the contentions of the learned Special Government Pleader by stating that the petitioners are in possession of the property and no proceedings were initiated to vacate the writ petitioners from the premises.

5.May that it be, if the writ petitioners are in unlawful possession of the said property belongs to the temple, then appropriate actions to be initiated under the provisions of the "HR & CE Act" and after providing an opportunity to the writ petitioners, then final order may be passed in accordance with law.

6.Thus, the respondents are directed to initiate appropriate action against all concerned in respect of the temple properties under the provisions of the said Act and Rules, take a decision and pass orders as early as possible and without causing any undue delay.

7. Accordingly, 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

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To

1. Joint Commissioner,
Hindu Religious and Charitable Endowment (HR & CE)
Near Old bus stand, Salem.

2. Assistant Commissioner,
Hindu Religious and Charitable Endowment (HR & CE)
Pennagaram road, Dharmapuri.

3. Inspector,
Hindu Religious and Charitable Endowment (HR & CE)
Palacode Post and Taluk, Dharmapuri.

+1cc to Mr.V.RAMESHVEL, Advocate, S.R.No. 30047

W.P.No.15418 of 2014

PPA (CO)
TR(04/05/2018)

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