

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.01.2018

CORAM

**THE HONOURABLE MR. JUSTICE K.K. SASIDHARAN  
AND  
THE HONOURABLE MR. JUSTICE P. VELMURUGAN**

**Writ Appeal No.2206 of 2013  
and  
CMP No12119 of 2016**

T.D. Rukku Reddiar (deceased)

1. R. Moorthy

2. R. Elumalai

(Substituted as per the  
Order of this court dtd  
30.01.2018 in CMP No.  
12119 of 2016)

.... Appellants

VS

1. The Commissioner,  
Hindu Religious & Charitable Endowment Dept.,  
Nungambakkam High Road,  
Chennai – 34

2. The Joint Commissioner,  
Hindu Religious & Charitable Endowment Department,  
Vellore – 9

3. The Assistant Commissioner,  
Hindu Religious & Charitable Endowment Department,  
Tiruvallur District – 602 001

4. N.S. Muthukumaran @ N.S. Elangovan

5. Munivel.S
6. G. Mohan
7. B. Kumar
8. M. Mani
9. R. Muthu
10. Gurumoorthy

.... Respondents

Writ Appeal filed under Clause 15 of Letters Patent against the order passed in W.P.No.3424 of 2012 dated 21.11.2012.

For Appellant : Ms.G. Sumitra  
For R.1 to R.3: Mr.M. Maharaja  
Spl.G.P (H.R& C.E)  
For R.4 to R.10: Mr.S. Ayyadurai

**JUDGMENT**

(Judgment of the Court was delivered by  
**K.K. SASIDHARAN,J.,**)

The writ petition, filed by the deceased appellant for a direction to the Commissioner, Hindu Religious & Charitable Endowment Department to take action against the respondents 4 to 10 and remove the encroachment in respect of the temple property, was dismissed by the learned Single Judge on the ground that there

is a dispute with regard to the nature of possession and the right claimed by the parties. The said Order is under challenge in this appeal.

2. We have heard the learned counsel for the appellant. We have also heard the learned Special Government Pleader on behalf of the respondents 1 to 3 and the learned counsel for the respondents 4 to 10.

3. The deceased appellant moved the Writ Court with a grievance that the property owned by the Arulmighu Ekavalliamman Temple, Gummidipoondi is in the possession of the respondents 4 to 10. According to the deceased appellant, the respondents 4 to 10 are in unauthorised occupation of the property and as such, the encroachers should be evicted.

4. The learned Single Judge dismissed the writ petition primarily on the ground that there is a bonafide dispute with regard to the right claimed by the respondents 4 to 10.

5. There is no question of directing the Hindu Religious & Charitable Endowment Department to take action against the respondents 4 to 10 at the instance of the appellant. In case, it is a temple property, it is always open to the concerned authority to take appropriate action in accordance with law.

6. We are, therefore, of the view that the learned Single Judge was justified in dismissing the writ petition. However, we make it clear that the dismissal of the writ petition would not stand in the way of taking appropriate action by the authorities in case, the temple property is in the possession of encroachers.

7. The intracourt appeal is disposed of with the above observation. No costs.

(K.K.SASIDHARAN.J.,) (P.VELMURUGAN.J.,)  
30 January, 2018

Speaking Order/Non-Speaking Order  
Index:yes/no  
website:yes/no  
sr

To

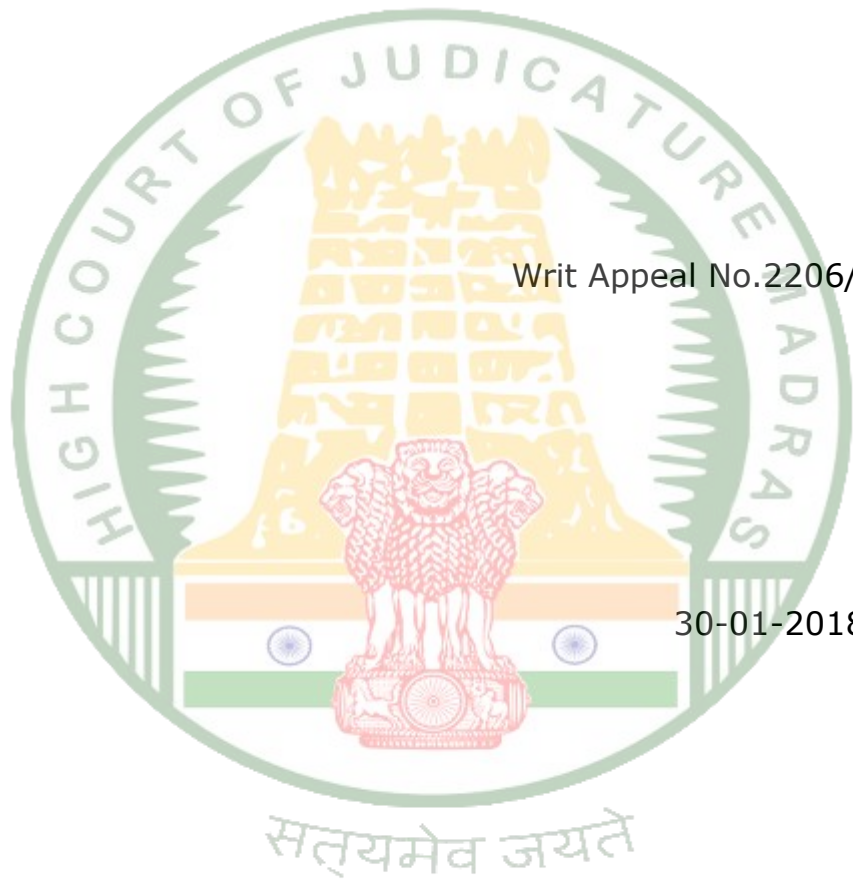
1. The Commissioner,  
Hindu Religious & Charitable Endowment Dept.,  
Nungambakkam High Road,  
Chennai – 34
2. The Joint Commissioner,  
Hindu Religious & Charitable Endowment Department,  
Vellore – 9
3. The Assistant Commissioner,  
Hindu Religious & Charitable Endowment Department,  
Tiruvallur District – 602 001



WEB COPY

**K.K.SASIDHARAN,J  
and  
P. VELMURUGAN,J**

sr



WEB COPY