



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.09.2018

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.[MD]No.19388 of 2018

and

W.M.P.[MD]No.17229 of 2018

S.Rajkumar

: Petitioner

Vs.

1.The Commissioner,
Hindu Religious & Charitable Endowment Board,
Chennai.

2.The Joint Commissioner,
Hindu Religious & Charitable Endowment Board,
Myladuthurai,
Nagapattinam District.

3.The Assistant Commissioner / Executive Officer,
Sri Naganathaswamy Temple,
Thirunageswaram,
Kumbakonam Taluk,
Thanjavur District.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the respondents from interfering and evicting the petitioner from land in S.No.195/1 situated at Thirunageswaram Village, Kumbakonam Taluk, Thanjavur District.

For Petitioner	: Mr.G.Gomathi Sankar
For Respondents 1&2	: Mr.S.Angappan
	Government Advocate
For Respondent No.3	: Mr.V.Chandrasekar

O R D E R

The case of the petitioner is that land in Survey No.195/1, to an extent of 1800 Sq.ft. originally belonged to one Aandalammal, who purchased the property in 1958 by a sale deed and was in possession and enjoyment of the same till her life time.



2. According to the petitioner, after UDR scheme, the survey number had been wrongly entered under the name of the third respondent temple. It appears that the property had changed hands and the petitioner purchased the property on 24.12.2011. According to him, he has been in possession and enjoyment of the property after the purchase in 2011. While so, the third respondent temple had issued notice to the petitioner stating that the petitioner has encroached the temple land and directed him to hand over the property to the temple. An enquiry was conducted under Section 78 of the Hindu Religious and Charitable Endowments Act and the same was allowed in favour of the temple against which the petitioner preferred a revision before the first respondent and the same according to the petitioner is still pending.

3. According to the petitioner, in the meanwhile, the respondents 2 and 3 are taking steps to evict him from the property and therefore, the petitioner is before this Court, seeking for issuance of Writ of Mandamus.

4. From the facts as narrated above and other materials as made available for consideration before this Court, the dispute appears to be purely civil in nature between the petitioner and the third respondent temple which dispute cannot be adjudicated by this Court in its writ jurisdiction.

5. In case the petitioner is aggrieved by any change of entry in the revenue records, it is always open to him to approach competent civil Court to establish his title and ownership of the property as against the third respondent temple. Without approaching the competent civil Court, the petitioner has chosen to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India. As stated above, the adjudication of the writ petition would involve settlement of factual dispute in regard to the title of the property and such dispute cannot be settled before this Court. Therefore, this Court cannot entertain this Writ Petition.

6. For the above stated reasons, this Writ petition is not maintainable and it is dismissed, accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS-II)



To

1.The Commissioner,
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Chennai.

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Thirunageswaram,
Kumbakonam Taluk,
Thanjavur District.

+1 CC To MR.G.GOMATHI SANKAR, Advocate SR. NO. 83179

+1 CC TO The Special Government Pleader SR.NO.83347

ORDER MADE IN
W.P. [MD] No.19388 of 2018
07.09.2018

MR

TR/SKN/SAR-II (25.09.2018) 3P 6C