

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Writ Petition No.10523 of 2018

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking verbatim the following relief/ s:

'...to issue a writ, order or direction more particularly one in the nature of *WRIT OF MANDAMUS* declaring the action of 3rd respondent that, the 3rd respondent initiated proceedings in No.B/W.274/I/ENCRO/CLX/L and, dated 06-03-2018 to demolish the temple including eviction from the premises of 4th respondent railway station, without following due procedure established under the provisions of Public Premises (Eviction of Unauthorized Occupants) Act, 1971, as illegal, irregular, arbitrary and without jurisdiction and violation of principles of natural justice and offend Article 14 of Constitution of India and consequently set aside the proceedings issued by the 3rd respondent dated 06-03-2018 and pass such other orders or order as this Hon'ble Court may deem fit and proper in the circumstances of the case.'

At the hearing, learned counsel for the petitioner would submit that the impugned order was passed without providing an opportunity to the petitioner to submit explanation and without hearing the petitioner and that, therefore, the order impugned is unsustainable under facts and in law. He would also submit that while passing the order impugned the procedure contemplated under law is not followed.

Smt. N. Sasikala, learned standing counsel for Railways appearing for the respondents, would submit that against the impugned order an appeal would lie in view of the provision of Section 9 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, and that, therefore, the writ petition is not maintainable.

Learned counsel for the petitioner, in reply, submitted that the writ petition may be disposed of reserving liberty to the petitioner to prefer an

appeal as envisaged under law; and, requested to protect the interests of the petitioner till such appeal is filed before the District Court.

Recording the submissions, the Writ Petition is disposed of reserving liberty to the petitioner to prefer an appeal before an appropriate forum as envisaged under law within four (04) weeks from the date of receipt of a copy of this order. It is made clear that till such time, as indicated supra, both the parties shall maintain absolute *status quo* insofar as the subject property.

There shall be no order as to costs.

Miscellaneous petitions, pending if any, also shall stand dismissed.

29.03.2018

Note: Issue CC by 02.04.2018.

[B/ o]
VjI

M. SEETHARAMA MURTI, J

