

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2019

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

W.P. 37597 of 2007
and
M.P.s 2 and 3 of 2007

Minor Vignesh,
represented by his maternal
grandfather and guardian
Muthu Bacha Mudaliar,
S/o. Subbaraya Mudaliar,
Door No.52/1, West Mada Street,
Shenoy Illam, Acharapakkam,
Madurantakam Taluk,
Kancheepuram District. Petitioner

Versus

1. The Executive Officer cum
Fit Person,
Arulmighu Ramalingeswar
Thirukovil,
Thimmarajampettai,
at Ulagalanda Perumal Kovil,
Kancheepuram.
2. The Commissioner,
Hindu Religious and Charitable
Endowments, Nungambakkam,
Chennai-600 034. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records pertaining to the proceedings of the 2nd respondent The Commissioner of Hindu Religious and Charitable Endowments, Nungambakkam, Chennai-34 resulting in the order in the proceedings in OM. No.67219/07/V-2, dated 19.11.2007 leading to the publication in Dina Thanthi dated 15.12.2007 for public auction to be held on 26.12.2007 in respect of the house, ground and premises bearing No.85/91, Thimmarajampettai Village, Main Road, Kancheepuram Taluk and District and quash the same.

For Petitioner : Mr.M.S.Subramanian

For Respondents : Mr.Arul Pazham Nee for R1

Mr.M.Maharaja,
Special Govt. Pleader (HR & CE)
for R2

O R D E R

This Writ Petition has been filed challenging the auction notice issued by the 1st respondent for granting lease in respect of house, ground and premises bearing No.85/91, Thimmarajampettai Village, Main Road, Kancheepuram Taluk and District. According to the petitioner, he is the absolute owner of the above property and the 1st respondent has no title over the same, and the property cannot put in public auction.

2. Mr.M.S.Subramanian, learned counsel appearing for the petitioner would contend that already, the petitioner has filed a suit for declaration in O.S.No.17 of 2011 on the file of Sub-Court, Kancheepuram declaring his title, but unfortunately, the Suit was dismissed for default and now, an application has been filed to restore the suit and the same is pending.

3. Considering the fact that as the petitioner title is in dispute, unless the petitioner's title is declared, he cannot challenge the auction notification, and the petitioner cannot maintain the Writ Petition at this stage. Therefore, the Writ Petition is liable to be dismissed. Accordingly, the Writ Petition stands dismissed.

4. However, it is open to the petitioner to establish his title before the Civil Court in the Suit filed by him. No costs. Consequently, the connected Miscellaneous Petitions in M.P.s 2 and 3 of 2007 are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

rpp

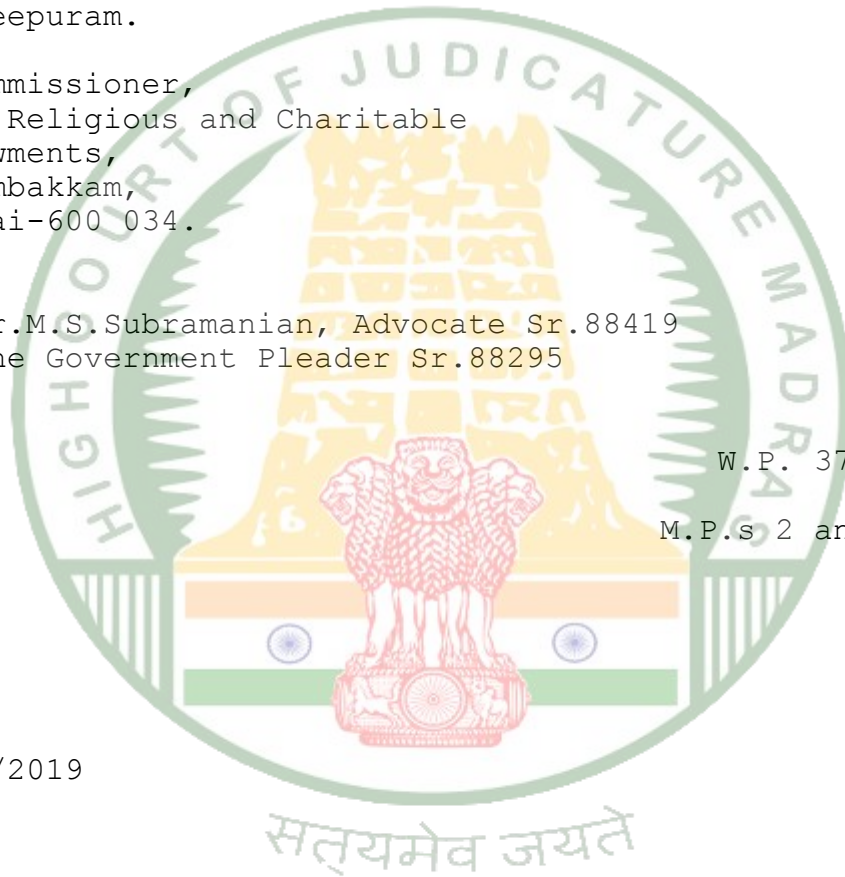
To

1. The Executive Officer cum
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2. The Commissioner,
Hindu Religious and Charitable
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Nungambakkam,
Chennai-600 034.

+1cc to Mr.M.S.Subramanian, Advocate Sr.88419
+1cc to the Government Pleader Sr.88295

W.P. 37597 of 2007
and
M.P.s 2 and 3 of 2007

vg I[co]
srg 25/11/2019



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