

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.09.2019

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.25311 of 2009
and M.P.No.1 of 2009

1. M.Chinnanna
2. M.Subramaniam
3. M.Narayanan
4. M. Govindan
5. M. Krishnan
6. M. Venkatesan
7. P. Nagaraj
8. P. Chandiran
9. P. Marigan @ Krishnappa

[Petitioners 1 to 9 represented herein by the Joint Power of Attorney Holders]

- a) S. Venkatesh
 - b) N. Ravikumar
 - c) N. Srinivas
- ... Petitioners

vs.

1. The Commissioner,
Hindu Religious and Charitable Endowment,
Utthamar Gandhi Street,
Nungambakkam, Chennai - 600 034.
2. The Joint Commissioner,
Hindu Religious and Charitable Endowment,
Salem -1.
3. The Assistant Commissioner,
Hindu Religious and Charitable Endowment,
Dharmapuri.
4. The Inspector,
Hindu Religious and Charitable Endowment,
Hosur, Krishnagiri District.
5. The Inspector of Police,
Bhagalur Police Station,
Hosur Taluk,
Krishnagiri District.

6. Sri Nanjundeswaraswamy Koil,
rep. By its Trustee,
Dhinnapalli Choodapuram Village,
Belathur Post,
Hosur Taluk,
Krishnagiri District.

....Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, forbidding the respondents from invoking or exercising any of the coercive powers under the HR & CE Act (T.N. Act 22 of 1959) in respect of the petitioners' ownership, possession and enjoyment of dry land measuring 2.79.0 hectares in extent comprised in survey No.37 situated at Dhinnapalli Choodapuram Village, Hosur Taluk, Krishnagiri District.

For Petitioner : Mr.C.Raghunatha Reddy

For Respondents: Mr.M.Maharaja,
Special Government Pleader (HR & CE)
[R1 to R4]

D.Suriyanarayanan,
Government Advocate for R5

ORDER

(Order of the Court was made by V.BHARATHIDASAN, J.)

Writ petition has been filed seeking a direction to the respondents HR & CE Department from interfering with the petitioner land in Survey No.37 situated at Dhinnapalli Choodapuram Village, Hosur Taluk, Krishnagiri District.

2. According to the petitioner, the petitioner's grand father one Pedda Konnappa purchased the above said land by a registered sale deed dated 10.08.1933. Right from the date of purchase, the petitioners and their predecessors-in-title have been in exclusive and continuous possession, control and enjoyment of the said property. In the meantime, the patta stood transferred in the name of the 6th respondent temple without any notice to the petitioner whatsoever. Now, taking advantage of transfer of the patta, 6th respondent is taking steps to evict the petitioner. Hence, the present writ petition has been filed.

3. The learned counsel appearing for respondents contended that admittedly, the patta has been transferred to 6th respondent under the Settlement Act, 26 of 1963. That apart, except the sale deed not even a single document is available with the petitioner to show that the land belongs to the petitioner.

4. In the above circumstances, the Assistant Commissioner, HR & CE has issued a notice dated 10.07.2009, directing the petitioner to vacate the premises, failing which, suitable proceedings will be taken to evict the petitioner. Since the petitioner do not have right, he cannot maintain a writ petition.

5. Admittedly as on today, the patta stands in the name of 6th respondent. The grievance of the petitioner is that the patta has been transferred in the name of the 6th respondent without his knowledge. If it is so, it is always open to the petitioner to approach the concerned authority seeking transfer of patta in his name. Till the patta which stands in the name of 6th respondent is canceled by the competent authority, the petitioner cannot claim any right over the property. However, if the respondents want to evict the petitioner, they can do it by following due process of law. In view of the above, the relief sought for in this Writ Petition cannot be granted at this stage.

6. Accordingly, this writ petition is dismissed. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

Mp

To

1. The Commissioner,
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Utthamar Gandhi Street,
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5. The Inspector of Police,
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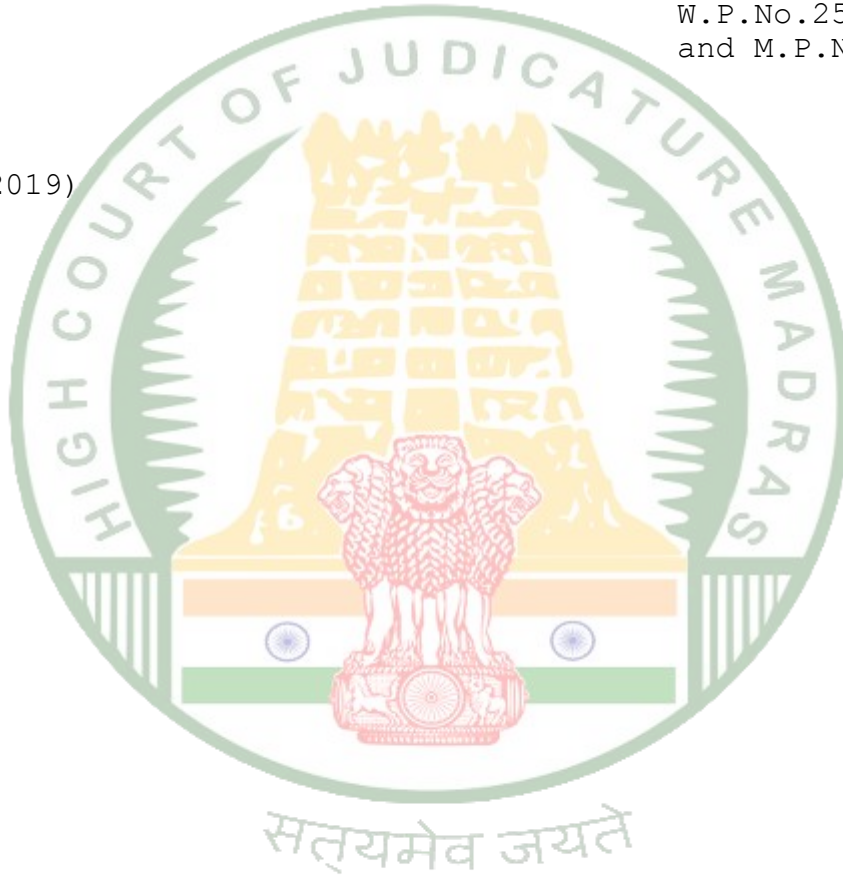
+1cc to Mr.V.Vasanthakumar, Advocate, S.R.No.81682

+1cc to the Government Pleader, S.R.No. 82306

+1cc to the Special Government Pleader (HR & CE), S.R.No. 82467

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SJ(CO)
GN(06/11/2019)



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