

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 14.08.2019
CORAM
THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
W.P.No.17443 of 2010
and
M.P.No.1 of 2010

A.Durai

..Petitioner

1.The Commissioner-HR & CE Department
Nungambakkam,
Chennai -600 034

2.The Joint Commissioner-HR & CE Department,
Nungambakkam,
Chennai-600 034

3.A.Kuberan

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking issuance of a writ of Certiorarified Mandamus to call for the records of the 1st respondent pertaining to the impugned Order in R.P.No.39/2009, D.2 dated 11.09.2009 and quash the same and further direct the respondents 1 and 2 to allot the tenancy rights of flower shop at Door No.8, Pillaiyar Koil Street, Villivakkam, Chennai-600 049, belonging to the Arulmighu Sowmya Thamoethara Perumal Temple, Villivakkam, in favour of the petitioner.

For Petitioner : Mr.J.Ramakrishnan
For R1 & R2 : Mr.M.Maharaja
Special Government Pleader (HR & CE)
For R3 : Mr.K.N.Natarajan

सत्यमेव जयते
O R D E R

Heard Mr.J.Ramakrishnan learned counsel appearing for the petitioner, Mr.M.Maharaja learned Special Government Pleader (HR & CE) appearing for 1st and 2nd respondents and Mr.K.N.Natarajan learned counsel appearing for the 3rd respondent and perused the materials available on record.

2.According to the petitioner, his father Appavu Pillai had two wives and the 3rd respondent is born to the first wife and the petitioner is through the second wife.

3.It is stated that his father was a license under the 1st and 2nd respondents with regard to the flower shop at Door No.8,

Pillaiyar Koil Street, Villivakkam, which belongs to Arulmighu. Sowmya Thomadhara Perumal Temple, Villivakkam. It is seen that the petitioner's father died in the year 1985. By order dated 21.02.2005, the shop was transferred in favour of the 3rd respondent.

4.However, pursuant to the direction issued in W.P.No.31306 of 2005, the Joint Commissioner conducted spot inspection and found that the 3rd respondent is occupying the shop and rejected the claim of the petitioner to transfer the shop in his name. Though the petitioner has challenged the order of the 1st respondent on the ground of violation of the provisions of the Hindu Succession Act, I am not able to agree with the same for the reasons that the petitioner is not in occupation of the shop since 1985 and it was found to be in possession of the 3rd respondent. Hence, there are no merits in this petition.

5.In that view, the Writ petition is dismissed. No Costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsn

To

1.The Commissioner-HR & CE Department
Nungambakkam,
Chennai -600 034

2.The Joint Commissioner-HR & CE Department,
Nungambakkam,
Chennai-600 034

+1cc to Mr.J.Ramakrishnan, Advocate sr.69513
+1cc to Mr.K.N.Natarajan, Advocate sr.69292
+1cc to The Special Government Pleader(HR & CE) SR.70370

W.P.No.17443 of 2010
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EV(CO)
NR 30/09/2019