

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2019

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 28633 of 2019
and
W.M.P. No. 28396 of 2019

Mohana Samson

... Petitioner

-vs-

1. M/s. A.M. Payamdi Amman Thirukoil,
Represented by its Fit Person,
Nadukuppam, VI Street,
Lloyds Road,
Triplicane,
Chennai - 600 005.
2. Hindu Religious and Charitable Endowments Board,
Represented by its Joint Commissioner,
Nungambakkam High Road,
Chennai - 600 006.
3. Hindu Religious and Charitable Endowments Board,
Represented by its Assistant Commissioner,
Nungambakkam High Road,
Chennai - 600 006.
4. The Assistant Commissioner,
Mylapore Police Station,
Mylapore,
Chennai - 600 004.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the Respondents causing eviction in the schedule bearing Old No. 67, New No. 123, Santhome High Road, II Floor, Foreshore Estate, Chennai - 600 002, until the disposal of the suit in O.S. No. 7135/2019 on the file of the II Additional City Civil Court at Chennai.

For Petitioner : Mr. S. Karthik for
M/s. T.M. Naidu & Co.

For Respondents : Mr. R. Bharanitharan (for R1)

M. Maharaja,
Special Government Pleader
(for R2 to R4).

O R D E R

Heard Mr. S. Karthik, Learned Counsel appearing for the Petitioner, Mr. R. Bharanitharan, Learned Counsel appearing for the First Respondent and Mr. M. Maharaja, Learned Special Government Pleader appearing for the Second to Fourth Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition has been filed to forbear the Respondents from evicting the Petitioner from the property bearing old No. 67, new No. 123, Santhome High Road, II Floor, Foreshore Estate, Chennai - 600 002, until the disposal of the suit in O.S. No. 7135 of 2019 on the file of the II Additional City Civil Court at Chennai.

3. The First Respondent has filed an affidavit dated 19.09.2019 stating as follows:-

"2. It is submitted that in pursuance of the direction issued by this Hon'ble Court, this Respondent along with the officials from the HR & CE Department with the aid and assistance of the Assistant Commissioner, HR & CE Department, Chennai-34, Assistant Commissioner of Police, Mylapore and Thasildar went to the property and returned the articles to the Petitioner herein and an inventory was also prepared and the same was signed by the Petitioner as well as the other officials. The property was once again sealed by this Respondent.

3. It is submitted that the property will now only be let out by way of Public Auction after getting prior approval from the Commissioner, HR & CE Department, Chennai-34. The property will not be let out to any third parties and the property will only be leased out by way of Public Auction. This respondent files an undertaking affidavit to this extent."

4. Learned Counsel for the Petitioner has made an endorsement stating as follows:-

"Received all the articles by the Petitioner with objection on 27.09.2018. Liberty may be granted to raise all factual objections in the Civil Suit in O.S. No. 7135 of 2019 pending on the file of the V-Additional City Civil Court at Chennai."

5. Recording the aforesaid submissions by both parties, the Writ Petition stands disposed. It is made clear that no view has been expressed by this Court on the correctness or entitlement of the rival claims of the parties, in respect of the property and that any adjudication by the Civil Court in this regard shall be on merits in accordance with law uninhibited and uninfluenced by the aforesaid vacation of the Petitioner from the premises belonging to the First Respondent. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar (CO)

//True copy//

Sub Assistant Registrar

vjt
To

1. The Fit Person,
Arulmighu Payamdi Amman Thirukoil,
Nadukuppam, VI Street,
Lloyds Road,
Triplicane, Chennai - 600 005.
2. The Joint Commissioner,
Hindu Religious and Charitable Endowments Board,
Nungambakkam High Road,
Chennai - 600 006.
3. The Assistant Commissioner,
Hindu Religious and Charitable Endowments Board,
Nungambakkam High Road,
Chennai - 600 006.
4. The Assistant Commissioner,
Mylapore Police Station,
Mylapore, Chennai - 600 004.

+1cc to Government Pleader SR.No.84208

W.P. No. 28633 of 2019

CP (CO)
GMY (23/10/2019)