

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2019

CORAM

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P.No.29352 of 2019

and

W.M.P.No.29164 of 2019

D.Ramamohanadurai

... Petitioner

Vs.

1.The Commissioner,
Hindu Religious & Charitable Endowment Department,
119, Uthamar Gandhi Salai,
Nungambakkam, Chennai - 600 034.

2.The Joint Commissioner,
Hindu Religious & Charitable Endowment Department,
119, Nungambakkam High Road,
Chennai - 600 034.

3.The Executive Officer,
A/m.Periyapalayathamman Temple,
Royapettah, Chennai - 600 014.

4.The Assistant Commissioner,
Hindu Religious & Charitable Endowment Department, Chennai,
119, Nungambakkam High Road,
Nungambakkam, Chennai - 600 034.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, forbearing the respondents 2 and 3 from taking any coercive action to dispossess the petitioner from the property measuring 1225 sq.ft. Comprised in Survey No.89/1, Block No.04, Door No.81D Srinivasaperumal Sannathi Street, Peters Road, Royapettah, Chennai till the disposal of the Revision petition in R.P.No.258 of 2019 pending on the file of the 1st respondent.

For Petitioner : Mr.N.Manoharan

For RR 1, 2 & 4: Mr.M.Maharaja for
Special Government Pleader

For R3 : Mr.A.K.Sriram

O R D E R

The prayer sought for herein is for a writ of Mandamus directing the respondent 2 and 3 from taking any coercive action to dispossess the petitioner from the property measuring 1225 sq.ft. Comprised in Survey No.89/1, Block No.04, Door No.81D Srinivasaperumal Sannathi Street, Peters Road, Royapettah, Chennai till the disposal of the Revision petition in R.P.No.258 of 2019 pending on the file of the 1st respondent.

2. The grievance of the petitioner is that attempts have been made to evict him while his revision petition against the order of eviction passed under Section 79 of the Hindu Religious & Charitable Endowment Act (for brevity "the HR and CE Act") along with the stay petition, is pending before the first respondent.

3. Mr.M.Maharaja, learned Special Government Pleader (HR & CE Department) for the respondents 1, 2 and 4 would submit that the revision petition is posted for hearing on 28.10.2019.

4. Mr.A.K.Sriram, learned counsel appearing for the third respondent would submit that this Court in W.P.No.17344 of 2019, has directed the Executive Officer of the temple viz., the third respondent herein to take possession of the property by 15.10.2019. A copy of the order has also been produced before this Court, which reads as under:

"It is represented by the Learned Special Government Pleader (HR & CE) appearing for the Second, Third, Eight and Tenth Respondents that they propose to take possession of the property on 15.10.2019 with police protection under Section 79 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, and seeks time to report the action take on the next hearing.

2. It shall be ensured by the Fourth and Seventh Respondents to provide necessary assistance as per Section 79 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, to take possession of the property from the encroachers. Post the matter on 18.10.2019."

5. A reading of the above order would show that there is no positive direction to take possession by a particular date. It is only the submission of the third respondent viz., Executive Officer, that has been recorded. The pendency of the revision petition and the stay petition filed by the petitioner is admitted.

6. The interests of justice would be served if the stay petition is disposed of before the petitioner is dispossessed.

7. Hence, this writ petition is disposed of with a direction to the first respondent to advance the hearing date of the revision petition to 21.10.2019 and dispose of the revision petition or the stay petition on the said date. Mr.Sriram, undertakes to appear before the Commissioner on behalf of the Executive Officer of the temple in the abovesaid revision petition.

Depending on the orders passed in the revision petition, it will be open to the Executive Officer of the temple to take possession of the said property. Needless to say that the petitioner shall not be evicted in the mean time. Connected W.M.P. is closed.

nsd/mtl

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Commissioner,
Hindu Religious & Charitable Endowment Department,
119, Uthamar Gandhi Salai,
Nungambakkam, Chennai - 600 034.

2.The Joint Commissioner,
Hindu Religious & Charitable Endowment Department,
119, Nungambakkam High Road,
Chennai - 600 034.

3.The Executive Officer,
A/m.Periyapalayathamman Temple,
Royapettah, Chennai - 600 014.

4.The Assistant Commissioner,
Hindu Religious & Charitable Endowment Department, Chennai,
119, Nungambakkam High Road,
Nungambakkam, Chennai - 600 034.

+2cc to Mr.N.Manokaran, Advocate, SR.No.85572/19

W.P.No.29352 of 2019

Kak(11/11/2019)