

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.12.2019

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HON'BLE MS.JUSTICE P.T.ASHA

WP.NO.35838/2019 & WMP.NO.36740/2019

Pon.Thangavelu .. Petitioner
vs.

1. The District Collector
Collectorate,
Singaravelar Maaligai
Beach Road, Chennai-1.
2. The Tahsildar
Sholinganallur Taluk
Chennai & District. .. Respondents

Prayer:

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records from the respondents and in particularly the 2nd respondent pertaining to the impugned rejection order in Na.Ka.No.9722/2016/A2 dated 17.12.2019 and quash the same and consequently to dispose the interim application filed on 09.09.2019 by the petitioner before the 1st respondent under section 10-B of the Tamil Nadu Land Encroachment Act, 1905.

For Petitioner : Mr.P.Vijendran

For R1& R2 : Mr.V.Jayaprakash Narayan, GP

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O R D E R

(Order of the Court was made by S.VAIDYANATHAN, J. & P.T.ASHA, J.)

(1) By consent, the writ petition is taken up for final disposal. Mr.V.Jayaprakash Narayan, learned Government Pleader accepts notice on behalf of the respondents.

(2) The petitioner is the Managing Trustee of Sri Vaiyapuri Vinayagar Temple and the Trust is a registered one bearing No.1330/2012 registered on 12.12.2012 on the file of the Sub

Registrar, Neelangarai. It is his further case that one Mr.Sekar had filed WP.No.9412 of 2014 before the Hon'ble First Bench of this Court against [1]the District Collector, Kancheepuram District ; [2]the Tahsildar, Sholinganallur Taluk, Kancheepuram District; [3]the Commissioner, Chennai Corporation, Chennai-3 and against 6 private persons including the petitioner herein, seeking to remove the unauthorisedly erected idol of the Deity in S.No.234 at Injambakkam Village, Sholinganallur Taluk, Kancheepuram District and the Hon'ble First Bench had disposed of the said writ petition on 31.08.2016, directing the authorities concerned to examine the subject matter. Since the said order has not been complied with, the petitioner therein, viz., Mr.I.H.Sekar, filed Cont.P.No.1756/2017. Subsequently, the petitioner was issued with notices under Sections 7 and 6 of the Tamil Nadu Land Encroachment Act, 1905, [in short 'the Act'] and challenging the same, the petitioner filed WP.No.3179/2019 before this Court and vide order dated 05.02.2019, this Court had disposed of the said writ petition, granting liberty to the petitioner to file an appeal under Section 10 of the Act to the authority concerned within the stipulated period with a further direction to the concerned authority to deal with the said appeal in accordance with law.

(3) It is the further case of the petitioner that pursuant to the order dated 05.02.2019 made in WP.No.3179/2019, he had preferred an appeal u/s.10 of the Act before the 1st respondent on 11.02.2019 and since the same was not given a disposal, he filed WP.No.26814/2019 before the Hon'ble First Bench seeking direction to the respondents therein to dispose of the said appeal and the Hon'ble First Bench had disposed of the said writ petition by observing that as the petitioner has got an efficacious alternate remedy, this Court is not inclined to interfere and the petitioner is relegated to the remedy of preferring a stay petition u/s.10-B of the Act in the said appeal.

(4) The 2nd respondent herein, despite the appeal pending before the 1st respondent, vide impugned order dated 17.12.2019, had rejected the petitioner's appeal dated 07.01.2019 on the ground that despite ordering notice to the petitioner to appear in person along with the relevant documents, the petitioner did not appear and that as per the Village Accounts/Revenue Records, the land in question in S.No.234, is classified as 'byf;nfh nfzp frk;' and that the temple is an unauthorised construction. Challenging the legality of the same, the present writ petition is filed.

(5) Heard the submissions of the learned counsel for the

petitioner ; and Mr.V.Jayaprakash Narayan, learned Government Pleader appearing for the respondents and also perused the materials placed before it.

(6)When the matter is taken up today for hearing, Mr. V.Jayaprakash Narayan, learned Government Pleader appearing for the respondents would submit that the appeal dated 11.09.2019 filed by the petitioner under Section 10 of the Act, before the 1st respondent, will be disposed of within the time to be stipulated by this Court and that the petitioner may be directed to appear before the authority concerned on a specific date along with the relevant documents and within a week from the date of appearance of the petitioner, orders would be passed and till such time, the final orders are passed, the temple run by the petitioner Trust, will not be disturbed.

(7)Taking note of the submissions of Mr. V.Jayaprakash Narayan, learned Government Pleader appearing for the respondents, the petitioner is directed to appear before the concerned authority along with relevant and authenticated documents on 02.01.2020 at 3.00 p.m. without awaiting for the order passed by this Court in this writ petition or notice from the Government. The concerned authority shall pass orders on or before 08.01.2020 and the order copy shall be handed over to the petitioner on the same day itself. It is made clear that till the authority concerned passes final orders, the temple run by the petitioner Trust shall not be disturbed.

(8)In the result, the writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

AP

To

1. The District Collector
Collectorate,
Singaravelar Maaligai
Beach Road, Chennai-1.

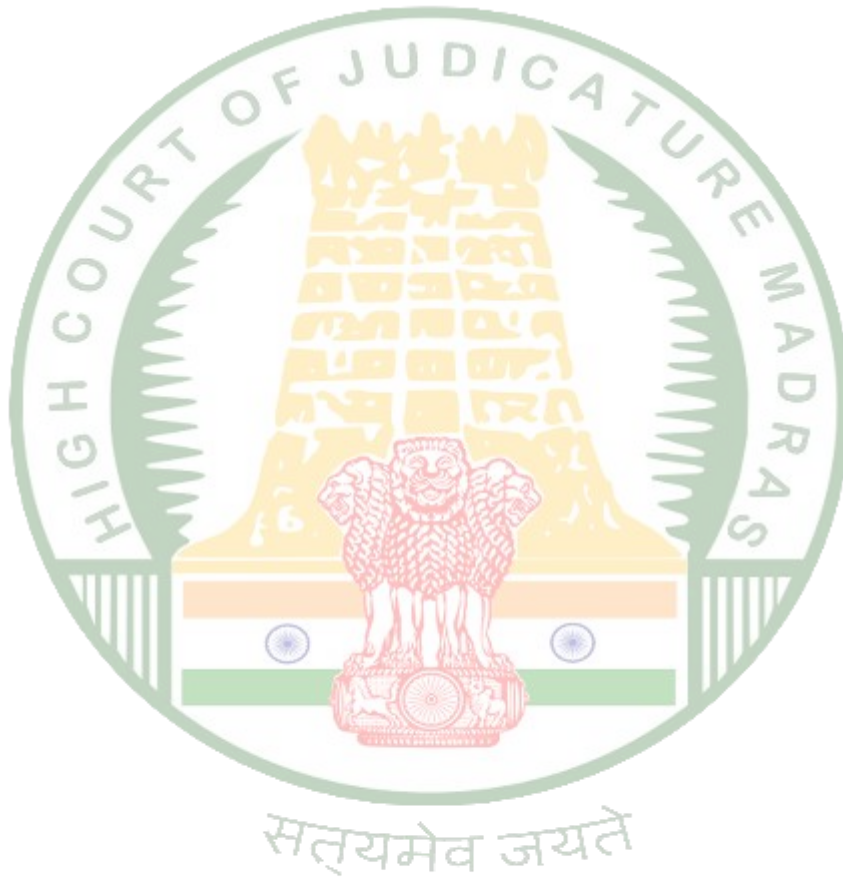
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2. The Tahsildar
Sholinganallur Taluk
Chennai & District.

+1cc to Mr.P.Vijendran, Advocate, S.R.No.106881
+1cc to the Government Pleader, S.R.No.106895

WP.NO.35838/2019

KK (CO)
CS/31/12/2019



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