

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 04.02.2019

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.32957 of 2018
and
WMP No. 38210 of 2018

1.S.Thangaraj
2.V.Suresh
3.S.Kannan
4.L.RajalingamPetitioners

Vs.

- 1.The Secretary to Government,
Tourism, Culture and Religious Endowments
Department,
Government of Tamil Nadu,
Secretariat,
Chennai-9.
- 2.The Commissioner,
Hindu Religious and Charitable Endowment
(HR&CE) Department,
Nungambakkam,
Chennai-34.
- 3.The Joint Commissioner,
Hindu Religious and Charitable Endowment
(HR&CE) Department,
Kottai Mariamman Temple Complex,
Salem-1.
- 4.Fit Person/Asst. Commissioner (Admn),
Hindu Religious and Charitable Endowment
(HR&CE) Department,
Kottai Mariamman Temple Complex,
Salem-1.
- 5.The Executive Officer,
Arulmigu Vinayagar and Mariamman Vagaiyara
Temples,
Suramangalam, Salem-5.

6.The Revenue Divisional Officer,
Salem.

7.Commissioner of Police,
Salem.

8.The Tahsildar,
Salem West,
Pallapatti,
Salem.

...Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records pertaining to the impugned order in G.O.Ms.No.220, Tourism, Culture and Religious Endowments (RE 5-2) Department dated 30.11.2018 on the file of the first respondent and quash the same.

For Petitioner : Mr.R.Neelakandan

For Respondents : Mr.M.Maharaja for R1 to R4
Special Government Pleader
Ms.AV.Bharathi for R5
Mr.K.T.Devendran for R6 to R8
Additional Government Pleader

O R D E R

This writ petition is filed challenging the order of the first respondent dated 30.11.2018 in rejecting the revision filed by the petitioners.

2.Heard both sides and perused the materials placed before this Court.

3.The petitioners claim tenancy over the subject matter property by virtue of such right alleged to have been conferred by few individuals by name Ponnusamy, Periyasamy and Arumugam. It is seen that the fifth respondent temple, on the other hand, claims title over the property and accordingly succeeded in establishing their title before this Court against those individuals in S.A.Nos.269, 270 and 271 of 1998 by the judgment and decree dated 19.04.2011. Thus, it is evident that the petitioners cannot have any better title than those private individuals, who lost before this Court in the above Second Appeals. Therefore, these petitioners were treated as encroachers and consequently, eviction proceedings were initiated against these petitioners under Section 78 of HR & CE Act, which has resulted in passing an order of eviction. The said order was put to challenge before the

first respondent, who in turn, rejected the claim of the petitioners and dismissed their revision through the impugned order. It is an admitted fact that immediately after the order passed by the first respondent, the petitioners were evicted from the premises on 09.12.2018 itself and the temple has also taken possession of the said property as well. The proceedings dated 09.12.2018 showing the eviction of the petitioners from the subject matter property and taking over possession of the same by the temple is placed before this Court.

4. Considering the above stated facts and circumstances, I do not find anything survives in this writ petition to be adjudicated upon further, more particularly, when the fact remains that the petitioners cannot claim better title than the persons, who allegedly put them in possession, have already lost their battle before the Second Appeal Nos.269, 270 and 271 of 1998 against the temple. Hence, the writ petition is dismissed. No costs. The connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

vri
To

- 1.The Secretary to Government,
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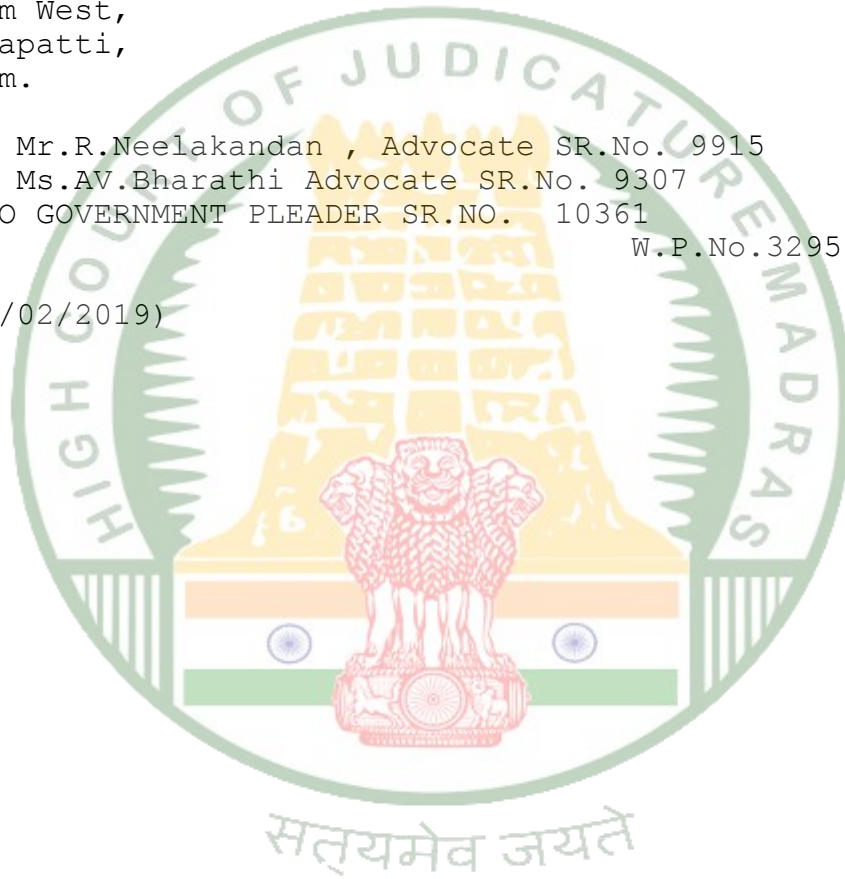
+1cc to Mr.R.Neelakandan , Advocate SR.No. 9915

+1cc to Ms.AV.Bharathi Advocate SR.No. 9307

+1 CC TO GOVERNMENT PLEADER SR.NO. 10361

W.P.No.32957 of 2018

A.SK(20/02/2019)



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