



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE S.S.SUNDAR

REV. APLW. (MD) No.24 of 2019
and W.M.P. (MD) No.5342 of 2019
in W.P. (MD) No.13648 of 2010

G.K.Ramakrishnan

... Petitioner/5th Respondent

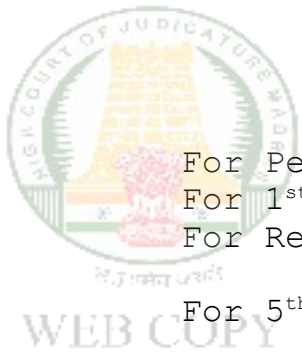
-vs-

- 1.The Executive Officer/Joint Commissioner,
Joint Commissioner,
Arulmigu Subramaniya Swamy Thirukoil,
Thiruchandur,
Tuticorin District.
- 2.The Chairman,
Hindu Religious Charitable Endowments,
Tuticorin District.
- 3.The Assistant Commissioner,
Hindu Religious Charitable Endowments,
Tuticorin District.
- 4.The Joint Commissioner,
Hindu Religious Charitable Endowments,
Tuticorin District. ... Respondents 1 to 4/Respondents
- 5.C.Pulaiya ... 5th Respondent/Writ Petitioner

PRAYER : Petition filed under Order 47 Rule 1 and 2 & Section 114 of C.P.C., praying to Review and set aside the order dated 15.11.2010 made in W.P. (MD) No.13648 of 2010 on the file of this Hon'ble Court.

Prayer in WP (MD) No.13648 of 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF MANDAMUS, directing the Respondents 1 to 4 to take necessary action against the 5th Respondent herein as per the procedure established by the Tamil Nadu Hindu Religious and Charitable Endowment Act 1959 and remove the encroachments of the temple property in Survey No.204/2 measuring an extent of 0.37.05 hectares in Keela Thiruchandur Town and restore it to the temple.



For Petitioner	:	Mr.N.Vijayarajan
For 1 st Respondent	:	Mr.K.Sekar
For Respondents 2 to 4	:	Mr.A.K.Baskara Pandian
		Special Government Pleader
For 5 th Respondent	:	Mr.M.C.Swamy

O R D E R

(Order of the Court was made by S.S.SUNDAR, J.)

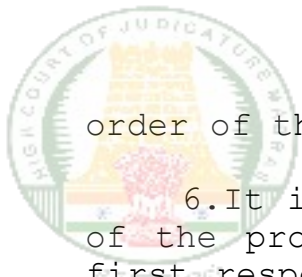
The Review Petition is directed against the order passed in W.P.(MD) No.13648 of 2010 dated 15.11.2010.

2.This Court by order dated 15.11.2010 in W.P.(MD) No.13648 of 2010, after taking note of the fact that the first respondent in the Writ Petition has already initiated proceedings to remove the encroachments, directed the first respondent to complete the exercise in accordance with law within three months from the date of receipt of a copy of that order.

3.The learned counsel appearing for the petitioner brought to the notice of this Court that a suit has already been filed by the first respondent in O.S.No.147 of 2010 on the file of the District Munsif Court, Tiruchendur and the said suit is pending. Though the suit filed by the first respondent was decreed exparte, it is stated by the petitioner that the petition filed by the petitioner to condone the delay in setting aside exparte decree was allowed on terms and the matter is now pending in C.R.P.(MD) No.1740 of 2014 filed by the first respondent Temple.

4.The learned counsel for the petitioner submitted that the Temple itself has filed a suit for declaration of title and for consequential recovery of possession from the petitioner. Once the temple has filed a title suit, eviction by following summary procedure under the HR & CE Act is unnecessary. The learned counsel for the petitioner also admitted that pursuant to the order of eviction, during the pendency of the suit, possession was taken by the Temple authorities in the year 2013.

5.The submission of the learned counsel appearing for the petitioner though appealing to some extent, this Court finds that the registered sale deed alleged to have been executed in favour of the petitioner's predecessor interest refers to enjoyment of the suit property as Nanthavanam. In the proceedings of the Joint Commissioner dated 29.05.2017, there is a reference to the character of land in revenue records regarding disputed property as being reserved for the first respondent temple for the maintenance of Nanthavanam. Though it is stated that it is a property of private individual and the temple has no records except 'A' register, this Court is not inclined to go into the disputed question of facts. However, a decision has been taken by the temple pursuant to the



order of this court.

6.It is admitted that the review petitioner has lost possession of the property and the property is now under the control of the first respondent temple. In such circumstances, in the interest of justice, we dismiss the Review Application with liberty to the review petitioner to work out his remedy either by filing a suit, or raising a counter claim in the suit which is pending.

7.In the result, the Review Application is dismissed, subject to the liberty preserved for petitioner. No costs. Consequently, connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar (AD-I)

/True Copy/

Sub Assistant Registrar

To

- 1.The Chairman,
Hindu Religious Charitable Endowments,
Tuticorin District.
- 2.The Executive Officer/Joint Commissioner,
Joint Commissioner,
Arulmigu Subramaniya Swamy Thirukoil,
Thiruchandur,
Tuticorin District.
- 3.The Assistant Commissioner,
Hindu Religious Charitable Endowments,
Tuticorin District.
- 4.The Joint Commissioner,
Hindu Religious Charitable Endowments,
Tuticorin District.

+ 1 CC TO Mr.N.VIJAYARAJAN, ADVOCATE IN SR No. 55216

SJ

TE : 02/04/2019 : 3P/6C

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