



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P.(MD).No.14900 of 2015

and M.P.(MD).No.1 of 2015

D.Sankareswari

.. Petitioner

Vs.

1.The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
Madurai - 1.

2.The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Department,
Dindigul.

3.The Executive Officer,
Arulmigu Saneeswara Bagavan Thirukkoil,
Kuchanur & Post,
Theni District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of writ of Mandamus directing the respondents or their men or employees or agents to forbear from in any way interfering with the petitioner's peaceful possession and enjoyment of petitioner's house property in Door No.7-1-8, 7-1-9, Main Road, Kuchanur, situated in survey No.543, Kuchanur village, Theni district and doing business in the said premises without due process of law.

For Petitioner : Mr.A.Thirumurthy

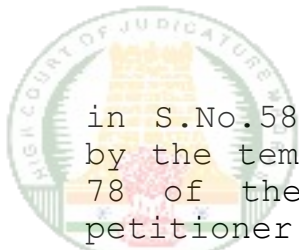
For Respondents: Mr.A.Muthukaruppan for R1 and R2
Additional Government Pleader
Mr.M.Karuppasamy for R3

ORDER

Having regard to the stand taken by the respondent, this Court is not inclined to adjourn this matter further.

2.This writ petition is for issuance of Writ of Mandamus forbearing the respondents from interfering with the petitioner's peaceful possession and enjoyment in his property in Door Nos.7-1-8, 7-1-9, situated in survey No.543, Kuchanur village, Theni district.

3.The petitioner claims to have purchased the property in S.No. 543 in Kuchanur Village, measuring an extent of 1125 sq. feet. The petitioner's title even according to him is confined only to S.No.543 in Kuchanur Village. However, alleging that the petitioner has encroached the property of temple to an extent of 500 sq. feet



in S.No.583/3 in Kuchanur Village, proceedings have been initiated by the temple authorities for removal of encroachment under Section 78 of the Hindu Religious and Charitable Endowments Act. The petitioner has not challenged the notice issued for removal of encroachment. However, the writ petition is for an injunction restraining the respondents from interfering with the petitioner's possession and enjoyment in his house property in S.No.543 in Kuchanur Village. Admittedly, the petitioner has no claim over the property, for which eviction notice issued namely S.No.583/3.

4.In such circumstances, this Court is of the view that the petitioner has no cause of action to file the present writ petition. The notice has been issued to the petitioner under Section 78 of the Hindu Religious and Charitable Endowments Act to vacate the property, which has been encroached by the petitioner in S.No.583/3. In the affidavit filed in support of the writ petition, the petitioner has stated that he does not claim any right over the property in S.No.583/3 in Kuchanur Village. When the petitioner admits that he has not encroached into any portion of the land in S.No.583/3, petitioner is not aggrieved by the eviction notice, which is only in respect of S.No.583/3.

5.Learned counsel appearing for the third respondent submitted that the removal of encroachment in S.No.583/3 has been completed and the petitioner has been evicted from the land in S.No.583/3.

6.Recording the fact that the eviction proceedings has been completed and possession of the encroached portion was handed over by the petitioner to the third respondent, this writ petition is closed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Crl.side)

// True Copy //

Sub Assistant Registrar(CS)

TM

To

1.The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department, Madurai - 1.

2.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Dindigul.

+1 CC to M/s.M/S.M.KARUPPASAMY, Advocate (SR-104238[F]

+1 CC to M/s.SPL.GP (SR-104513[F] dated 11/12/2019)

SMA/03/01/2020/2P/5C

W.P.(MD).No.14900 of 2015

10.12.2019