

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2020

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.11620 of 2020
and
WMP.Nos.14247 & 14250 of 2020

1.K.P.Mani
2.S.Suresh

.. Petitioners

Vs.

- 1 The Secretary to Government
Tourism Culture And Religious
Endowments Department
St. George For Chennai
- 2 The Commissioner
Hindu Religious and Charitable Endowment Dept.
Uttamar Gandhi Salai Chennai-34
- 3 The Joint Commissioner
Hindu Religious and Charitable Endowment Dept.
Vellore Vellore Dt
- 4 The Assistant Commissioner
Hindu Religious and Charitable Endowment Dept.
Kancheepuram
- 5 The Executive Officer
A/m. Ekambareswarar Temple
Kancheepuram- 631502.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying Writ of Certiorari, to call for all the records on the file of the 5th respondent in Proceedings No. Nil dated Nil in respect of S. No.2725/ 1 Venkatagiriraja Thottam Alladi Pillayan Koil Street 2nd Division Kancheepuram Town Kancheepuram District and quash the same.

For Petitioners : Mr.A.Sundaravadanan

For Respondents : Mr. M.Karthikeyan, Spl.G.P.
- R1 to R4
Mr.Arul Pazham Nee
Standing Counsel - R5

O R D E R

Mr.M.Karthikeyan, learned Special Government Pleader accepts notice for R1 to R4 being the Secretary to Government, Tourism Culture Endowment Department/R1 and authorities under the Hindu Religious and Charitable Endowments Act, 1959 (in short 'Act')/R2 to R4 and Mr.Arul Pazham Nee, learned Standing Counsel accepts notice for the Executive Officer, Arulmighu Ekambareswarar Temple, Kancheepuram/R5. Both learned counsel for the respondents are armed with instructions to proceed with the matter and by consent of all learned counsel, this matter is disposed finally even at the stage of admission.

2. The petitioners seek a certiorari calling for and quashing an order of R5 dated (nil), evicting them from S.No.2725/1, Venkatagiriraja Thottam, Alladi Pillayan Koil Street, 2nd Division, Kancheepuram Town, Kancheepuram District.

3. There are concurrent findings of fact as against the petitioners holding them to be encroachers and as against the order of the Commissioner passed under Section 81(1), further appeal has been filed before R1 in terms of Section 114(1) on 24.01.2020, which is pending disposal. Inter alia, the petitioners have also sought interim protection from eviction till the disposal of the appeal by R1.

4. It is stated that the appeal and stay petition are not being taken up for disposal on account of the ongoing pandemic. However, the petitioners could well be heard over video conference insofar as the interim application is concerned, particularly, in the light of a specific provision, Section 114(2), which states as follows:

114. Power of Government to call for records and pass orders. -
(1)

(2) The Government may stay the execution of any such decision or order, pending the exercise of their powers under sub-section (1) in respect thereof.

5. In the light of the effective remedy provided for consideration of the interim protection sought, I do not see any justification to intervene in the impugned orders.

6. By consent of all parties before me, I direct that the petitioners be heard by R1 over video conference on Friday, the 11th of September, 2020 at 10.30 a.m. without expecting any further notice in this regard on the application for stay. The application shall be disposed within a period of two weeks thereafter, i.e., on or before 25.09.2020 and status quo shall be maintained till 25.09.2020.

7. This writ petition is disposed in the aforesaid terms. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

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To

- 1 The Secretary to Government
Tourism Culture And Religious Endowments Department
St. George Fort, Chennai
- 2 The Commissioner
Hindu Religious and Charitable Endowment Dept.
Uttamar Gandhi Salai Chennai-34
- 3 The Joint Commissioner
Hindu Religious and Charitable Endowment Dept.
Vellore Vellore Dt
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- 5 The Executive Officer
A/m. Ekambareswarar Temple
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सत्यमेव जयते

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AJS (CO)

GN (22/10/2020)

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