

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2020

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Writ Petition No.23569 of 2018
and
W.M.P.No.27520 of 2018

Arulmigu Kurungaleeswarar &
Vaikuntavasaperumal Temple,
represented by its Executive Officer,
Koyambedu,
Chennai - 600107. Petitioner

Vs

1.The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai - 600003.

2.The Assistant Engineer,
Zone X,
Corporation of Chennai,
Kodambakkam,
Chennai - 600024.

3.The Inspector of Police,
(Law & Order)
K-11 Koyambedu Police Station,
Chennai - 600107.

4.P.Lakshmi Ammal
W/o.Palani Naicker

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing respondents 1 to 3 to take appropriate action against the encroachment by fourth respondent in the land measuring 10 cents in Survey No.121, Koyambedu Village, situated at West Mada Street, Koyambedu, Chennai - 600107.

For Petitioner : Mr.K.Sriram
for M/s.A.S.Kailasam and Associates

For Respondents: Mrs.Karthikaa Ashok [R1 & R2]
Mr.J.Pothiraj,
Special Government Pleader [R3]
Mr.P.G.Padmanathan [R4]

O R D E R

[Order of this Court was made by R.SUBBIAH, J]

Petitioner has filed the present Writ Petition seeking issuance of a Writ of Mandamus directing respondents 1 to 3 to take appropriate action against the encroachment by fourth respondent in the land measuring 10 cents in Survey No.121, Koyambedu Village, situated at West Mada Street, Koyambedu, Chennai - 600107.

2. Heard learned counsel for petitioner, learned standing counsel for respondents 1 and 2, learned Special Government Pleader appearing for third respondent and learned counsel appearing for fourth respondent.

3. Learned counsel for petitioner submits that the petitioner owns immovable properties in Koyambedu Village. Among other properties, petitioner owns a piece of land measuring 10 cents comprised in Survey No.121, West Mada Street, Koyambedu, Chennai - 600107. Out of the total extent of 28.76 acres, 3.50 acres is being maintained as a flower garden. The said land is classified as Grama Natham and the petitioner is in possession and enjoyment of the land for several centuries. The flower garden, measuring 10 cents, is adjacent to the fourth respondent's house and she is trying to encroach the same by putting up construction. The fourth respondent has obtained an ex parte decree in O.S.No.6702/1995 on the file of City Civil Court, Chennai and permanent injunction restraining the petitioner from interfering with the possession and enjoyment of the subject land. On the complaint of petitioner, the fourth respondent was called for an enquiry and during enquiry, she has produced the copy of the decree dated 18.06.1999, which is in her favour. Thereafter, petitioner submitted a letter dated 03.08.2018 to respondents 1 and 2 to take action against the fourth respondent with regard to the encroachment. Since no action was taken, the present Writ Petition has been filed seeking the aforesaid relief.

4. Today, the counter affidavit of second respondent has been filed. Learned standing counsel appearing for second

respondent, relying on the said counter, submits that since the subject property is a temple land, the second respondent/Corporation has no authority to remove the encroachment. In fact, pending the present Writ Petition, the second respondent has inspected the subject property and found no standing structures or building on the land and the land is fenced with wooden sticks and bricks are stored. Submitting as above, learned standing counsel, prays for dismissal of the present Writ Petition.

5. The fourth respondent has also filed a counter affidavit denying the allegations made by the petitioner.

6. This Court has considered the rival submissions.

7. Be that as it may, the fact remains that respondents 1 to 3 do not have authority to deal with the case of petitioner temple. Therefore, the relief, as prayed for by petitioner, cannot be granted.

Accordingly, the Writ Petition is dismissed. However, the petitioner temple is at liberty to approach the competent authority, if any encroachment exists on the temple land. No costs. Connected miscellaneous petition is closed.

Sd/-

Assitant Registrar(C.O.)

/True Copy/

Sub Assistant Registrar

To

- 1.The Commissioner, Corporation of Chennai,
Ripon Buildings, Chennai - 600003.
- 2.The Assistant Engineer,Zone X,
Corporation of Chennai,Kodambakkam,Chennai - 600024.
- 3.The Inspector of Police, (Law & Order)
K-11 Koyambedu Police Station, Chennai - 600107.

+1cc to M/s.A.S.Kailasam and Associates, Sr.No.11235

+1cc to M/s.Karthikaa Ashok, Advocate Sr.No.11347

+1cc to M/s.P.G.Padmanabhan, Advocate SR.No.11233

AKM/09.03.2020 /3p-7c/

Writ Petition No.23569 of 2018