

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2020

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.Nos.16883, 16900, 16894, 16887, 16985, 17002, 16970 & 17200
of 2020

and

WMP.Nos.20953, 20945, 20947, 20966, 20967, 20952, 20960, 20961,
21089, 21063, 21077, 21088, 21066, 21074, 21249 & 21882 of 2020

T.M.Mohammed Sulthan	..	Petitioner in WP.16883/2020
Thahasharbudeen Meeran	..	Petitioner in WP.16900/2020
Mohammed Ali	..	Petitioner in WP.16894/2020
Sabiya	..	Petitioner in WP.16887/2020
Saroja	..	Petitioner in WP.16985/2020
M.Rajendran	..	Petitioner in WP.17002/2020
M.K.Kunju Abdullah	..	Petitioner in WP.16970/2020
P.Isaac Dass	..	Petitioner in WP.17200/2020

Vs

- 1.The Commissioner,
Hindu Religious and Charitable Endowment Department,
Chennai- 600 034.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Coimbatore- 18.
- 3.The Executive Officer,
Arulmigu Sri Varasithi Vinayagar Thirukkoil,
South Ukkadam, Coimbatore.
- 4.K.Natarajan
- 5.The District Collector,
Coimbatore District Collectorate Coimbatore- 641 018.
- 6.The Commissioner,
Coimbatore City Municipal Corporation,
Big Bazaar Street, Coimbatore- 641 001.
- 7.The Commissioner of Police,
Coimbatore City,
Huzur Road Coimbatore- 6641018.

Prayer in WP.NOs.16883,16900,16894,16887,16985 & 17002/2020: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Mandamus, to direct the respondents 1 to 3 to handover to the petitioner the possession of the shop land to an extent of 300 Sq.Ft comprised in S.No.1888 of Coimbatore Town and having Door No. 78-C/ A,78-A,78-C/B,67,78-C,78-B,78-C/C Podhanur Main Road South Ukkadam Coimbatore along with payment of Rs. 10 lakhs with interest towards compensation and damages for the demolished superstructure and removed goods owned by the petitioner.

Prayer in WP.No.16970 and 17800 of 2020:

Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Mandamus, Directing the respondents 1 to 3 to handover to the petitioner the possession of the shop land to an extent of 675 sq.ft and 6 Feet*4 Feet comprised in S.No.1888 of Coimbatore Town and having Old Door No.75 New No.79 Podhanur Main road South Ukkadam Coimbatore along with payment of Rs.10 lakhs with interest towards compensation and damages for the demolished superstructure and removed goods owned by the petitioner.

(In all WPs)

For Petitioner : Mr.V.Jeevagiridharan
For Respondents : Mr.M.Karthikeyan (for R1 & R2)
Special Government Pleader (HR&CE)
Mr.V.Rajesh Vivekananthan (for R3)
Mr.S.Thangavel (for R5 & R7)
Special Government Pleader
Mr.K.Magesh (for R6)
Standing Counsel

COMMON ORDER

These writ petitions are filed by persons in occupation of several shops in Survey No.1888 Door Nos.78-C/A, 78A, 67, 78-C/B, 78C, 78B, 75 and 78C/C, Podhanur Main Road South Ukkadam, Coimbatore (premises in question) along with a claim of Rs.10 lakhs as interest towards compensation and damages for demolition of super structure and the removal by goods owned by the petitioners from the aforesaid premises.

2. W.P.No.16883 of 2020 is taken to be illustrative of all writ petitions. The petitioners are all in occupation of the aforesaid premises. According to the petitioners, it is the Arulmighu Sri Varasithi Vinayagar Temple, South Ukkadam, Coimbatore (Temple), that is the owner of the lands upon which the property in question, being shops, stand. The petitioner/their fathers are stated to have entered into the arrangements of lease for the property in question by a person claiming to be the hereditary trustee of the temple. Disputes in regard to claim of hereditary trusteeship have admittedly arisen between the aforesaid hereditary trustee the third parties and civil suits have been filed in that regard.

3. O.S.No.143 of 1993 came to be filed by one claimant of hereditary trusteeship, that came to be dismissed by the Sub Court Coimbatore. The decree and judgment was reversed by this Court in A.S.No.112 of 2000 by judgment dated 07.06.2010. An SLP was filed in SLP.No.8758 of 2011 that was dismissed on 13.10.2014 as infructuous.

4. R3/E.O. is stated to have been appointed on 08.01.2009 and proceedings for eviction of the petitioner initiated by him. Mr.Karthikeyan, appearing for the official respondents, i.e. R1 and R2, would confirm the position that orders of eviction have been passed as against all the petitioners on 28.04.2015 directing them to hand over vacant possession of the property in question to the Department. Revision petitions filed by the petitioners also came to be dismissed and a common order passed by the R1/Commissioner HR&CE in R.P.Nos.58 to 79 of 2015 on 25.02.2016. Only two petitioners, S.Saravanamurthy and V.Balasubramaniam appear to have filed statutory appeals before the Secretary to State in Appeal No.3860 of 2016. Their appeals have also come to be dismissed on 06.06.2018.

5. A Writ petition was filed by S.Saravanamurthy and V.Balasubramaniam in W.P.No.16913 of 2018 seeking to quash Government Order No.102 dated 06.06.2018 and on 06.07.2018 status quo, limited to a period of four weeks, was granted. The interim protection does not appear to have extended thereafter and no order of extension has been placed in the typed set of papers.

6. O.S.No.2201 of 2015 was filed before the District Munsif Court, Coimbatore seeking declaration as against R4 claiming to be the owner of the lands in question. This was decreed by decree and judgment dated 30.06.2016, which had attained finality. Neither the E.O. nor the HR&CE Department have been arrayed as defendants.

7. R3/E.O. has similarly filed O.S.No.1233 of 2018 before the 5th Additional District Munsif Court, Coimbatore seeking declaration to the similar effect.

8. The aforesaid narration would make it amply clear that there are various disputes touching upon the ownership of the land in question as between the official respondents and private parties. The petitioner in the illustrative case would state that he himself has filed a suit in O.S.No.760 of 2020 on 03.09.2020 as against the E.O. and the trustees seeking a permanent injunction against them from disturbing them otherwise than by due process of law.

9. In the light of the aforesaid, the mandamus sought for cannot be granted and the appropriate forum to adjudicate and decide the disputes would be the Civil Court in the suits already filed. These writ petitions are dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar (CS III)

//True Copy//

Sub Assistant Registrar

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To

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- 5.The Commissioner,
Coimbatore City Municipal Corporation,
Big Bazaar Street, Coimbatore- 641 001.
- 6.The Commissioner of Police,
Coimbatore City, Huzur Road Coimbatore- 641018.

+3ccs to Mr.K.Magesh , Advocate SR.No. 38965 to 38967
+1ccs to Mr.R.Rajesh Vivekanadan , Advocate SR.No. 38959
+1 cc to Government Pleader Sr.No. 39053 to 39055
+1 cc to Spl Government Pleader HR & CE Sr.No. 39144 to 39151
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cp co
A.SK(05.03.2021)



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