



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.16989 of 2020

Muthukrishnan

...Petitioner

Vs

1. The Commissioner,
Hindu Religious & Endowment Board,
Uthamar Gandhi Road,
Nungambakkam, Chennai.
2. The Joint Commissioner,
Hindu Religious & Endowment Board,
Mayiladuthurai TK & District.
3. A/m Swarnapurieswarar Temple,
South Poigai Nallur,
Nagapattinam & District.

4.P.Tamizhrasi

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of certiorarified mandamus to call for the records from the 1st to 3rd respondents pertaining to the impugned order, Na.Ka.No.74325/2019/R-1-2/dt. 23.01.2020 issued by the 1st respondent and quash the same and consequently to direct the 1st to 3rd respondent to take necessary steps remove the encroachment made on the land in S.No.52/1, Sivan Koil Street, South Poigai Nallur, Kilveller Taluk, Nagapattinam District except the leased out portion to the 4th respondent and to make arrangement for pathway to the petitioner's family.

For Petitioner : Mr.P.Vijendran

For Respondents : Mr.N.R.R.Arun Natarajan
(for R1 to R3)
Government Advocate
No Appearance (for R4)



O R D E R

Heard Mr.Vijendran, learned counsel for the petitioner and Mr.N.R.R.Arun Natarajan, learned Government Advocate for the official respondents/R1 and R2 as well as the Executive Officer of the Arulmigu Swarnapuriswarar Temple, Nagapattinam. There is no appearance for R4 and her appearance may not be necessary in the light of the admitted facts dealt with herein below.

2. The petitioner has sought a certiorarified mandamus quashing order dated 23.01.2020 passed by R1/the Commissioner, HR&CE Department and a consequential direction to the official respondents to remove the encroachment by R4 in S.No.52/1, Sivan Koil Street, South Poigai Nallur, Kilvellur Taluk, Nagapattinam District.

3. As per the counter filed by the official respondents, R4 is not an encroacher and is a lessee in the property in question, which admittedly is a temple property. This Court proceeds on the premise that the lease arrangement qua the temple and R4 is in consonance with the requirements of Section 34 of the HR&CE Act, 1959.

4. That apart, it is the petitioner's claim that there was a pathway in the property in question, which the petitioner and his family members were using to access the road. However, the respondents expressly deny the existence of any such public pathway in the said land. The admitted position is thus that the property in question constitutes temple land and there is no public pathway thereupon.

5. In the light of this position, no further order is called for in this writ petition and it is open to the petitioner to avail appropriate remedy before the Civil Court, if he so desires. This writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vs

To

1.The Commissioner,
Hindu Religious & Endowment Board,
Uthamar Gandhi Road,
Nungambakkam, Chennai.



2.The Joint Commissioner,
Hindu Religious & Endowment Board,
Mayiladuthurai TK & District.

3.A/m Swarnapurieswarar Temple,
South Poigai Nallur,
Nagapattinam & District.

+lcc to Mr.P.Vijendran, Advocate Sr No.32907
+lcc to Special Government Pleader Sr No.32992

W.P. No.16989 of 2020

NR (CO)
PR (01/09/2021)