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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2021

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.24036 of 2021

N.Ramadoss

...Petitioner

Vs.

1.The Deputy Commissioner,
Hindu Religious and Endowment Department,
Nungapakkam,
Chennai - 600034.

2.E.Vasantha

...Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India to issue Writ of Mandamus or Writ or order or direction or any other nature of Writ, direct the 1st respondent to regularise the house property in the petitioner name by legally from stands in the name of the 2nd respondent, situated at Chennai District Registrar, Mylapore Sub-Registrar, Mylapore, Tiruvallikani Taluk, Chennai - 600028, Ramakrishna Nagar, Valleswarar Temple Garden, 4th Cross Street, Door No.7, Re-survey No.4247/6 (PART) which is total extent of 540 square feet's ground plot which is constructed building roof.

For Petitioner :	Mr.T.V.G.Kartheeban
For Respondent 1:	Mr.N.R.R.Arun Natarajan Government Advocate

O R D E R

The relief sought for in the present Writ Petition is to direct the 1st respondent to regularise the house property in the petitioner's name from the name of the 2nd respondent situate at Chennai District Registrar, Mylapore Sub-Registrar, Mylapore, Tiruvallikani Taluk, Chennai - 600028, Ramakrishna Nagar, Valleswarar Temple Garden, 4th Cross Street, Door No.7, Re-survey No.4247/6 (PART) which is total extent of 540 square feet ground plot which is constructed building roof.

2. The petitioner states that the land belongs to the temple and he put up a super structure in the said land. In view of the fact that the petitioner is in occupation of the



said premises for many years, he made a representation to the Deputy Commissioner, Hindu Religious and Charitable Endowment Department to regularise the property in his name and the said representation has not been disposed of. Thus, the Writ Petitioner is constrained to move the present Writ Petition.

3. The petitioner relies on the sale deed executed by one Mr.P.Ramadoss, in favour of the 2nd respondent who is his aunt, on 09.09.1996. It is contended that based on the sale deed executed in favour the 2nd respondent, the petitioner become the absolute owner of the super structure constructed. Thus, the property has to be regularised in the name of the petitioner.

4. The learned Government Advocate appearing on behalf of the 1st respondent disputed the contention raised by the petitioner by stating that the petitioner has no right in respect of the property, as the property belongs to Arulmighu Valleeswarar Thirukovil at Mylapore, Chennai. There is no dispute between the parties that the subject property belongs to the said temple.

5. The learned Government Advocate contended that the super structure was constructed without getting prior permission from the competent authorities of the department. The lease holder was one Mr.Ramadoss and the rent has not been paid properly. The lease holder has committed a default in payment of amount and as on date, the arrears of rent to be paid was a sum of Rs.1,24,704/-. This apart, the lease period expired long back and as per Section 34 of the Hindu Religious and Charitable Endowments Act, such a period is only for a period of 5 years and beyond 5 years, approval of the Commissioner is mandatory and in the present case, no such approval was obtained. Therefore, neither the petitioner nor the 2nd respondent has any right over the property as they are encroachers of temple land as of law.

6. This Court is of the considered opinion that squatting on the temple properties in large scale is menace. Great souls had donated their hard earned money and properties to the temple for the purpose of doing religious services. Thus, the intentions of those great souls that the service for the religious purposes are to be honoured and the competent authorities are duty bound to protect the property in the interest of the temple and by honouring petitioners who donated their hard earned money. Any negligence or lapses on the part of the authorities must be viewed seriously. This Court is repeatedly observing that many such illegalities in dealing with



the temple properties are occurring due to officials or active acquisition on the part of the individuals and pursuant actions are not initiated while dealing with the temple properties. Thus, the department is also answerable and accountable to the public as the department is the controller of these properties as well as the temple activities under the provisions of the Hindu Religious and Charitable Endowments Act.

7. Thus, once the property belongs to temple is dealt with, it has to be followed in the manner known to law. Collection of rent, renewal of rent, fixation of fair rent are to be done periodically as contemplated under provisions of the Act and in the event of any lapses or disputes of doing the same, the Executive Officers of the temple, the other officials of the temple and the Hereditary Trustees are answerable and accountable for such lapses, negligence or dereliction of duty.

8. There are large scale allegations against the administration of the temples including Trustees and Executive Officers. Thus, the higher officials of the department are bound to conduct periodical review of such issues and initiate prompt action, so as to ensure that the purpose and object of the Act is fulfilled and the properties of the temples are protected.

9. In the present case, the execution of sale deed by one Mr.P.Ramados in favour of the 2nd respondent in the year 1996 itself is irregular and illegal document. When the property belongs to the temple, even for constructing a building prior permission has to be obtained from the competent authorities. Any such illegal constructions cannot be regularised nor the lessee can be allowed to continue in the temple premises beyond the period of his occupation

10. Therefore, this Court is of the considered opinion that the relief sought for to direct the 1st respondent to consider the case of the petitioner for regularising the property cannot be granted and further the petitioner has not established even the semblance of legal right so as to entertain the Writ. Consequently, the Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar



To

The Deputy Commissioner,
Hindu Religious and Endowment Department,
Nungapakkam,
Chennai - 600034.

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+1 CC to Mr.T.V.G.Kartheeban, Advocate sr 58261.

W.P.No.24036 of 2021

KSM(CO)
SP(29/11/2021)