



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.09.2021

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THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P(MD).No.16064 of 2021

and

W.M.P(MD).Nos.12934 & 12935 of 2021

S. Udhayakumar

... Petitioner

Vs.

1.The Joint Commissioner,
Tamilnadu Hindu Religious and
Charitable Endowment Department
Thirunelveli.

2.The Executive Officer/Thakkar,
Joint Commissioner of Subramania Temple,
Parvathipuram Udamootu Dharmam
Of Arulmighu Subramania Temple, Tiruchendur,
Nagercoil.

3.The Assistant Commissioner,
Tamilnadu Hindu Religious and
Charitable Endowment Department,
Nagarcoil.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of certiorari, calling for the records pertaining to the impugned order of the first respondent vide his proceedings in M.P.No. 58 of 2016 dated 10.02.2017.

For Petitioner : Mr. D. Senthil

For Respondents : Mr. P. Subbaraj

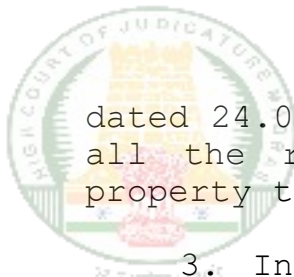
Counsel for the State for R1 and R2

For R3 : Mr. M. Muthugeethayan

ORDER

The petitioner challenges an order dated 10.02.2017 by which it was concluded that the petitioner is an encroacher in the relevant temple property.

2. The petitioner claims that he is the owner of the property bearing resurvey No. G1/95 and G1/96 of an extent of 544.5 sq.ft. It is stated that the said property was purchased under a sale deed



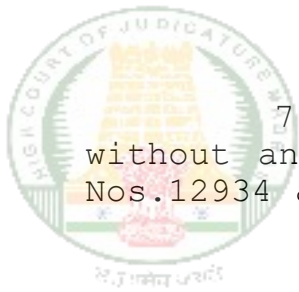
dated 24.01.1997 from one Santhakumari. According to the petitioner, all the revenue records were changed in his father's name and property tax was also assessed in his father's name.

3. In these circumstances, it is stated that the second and third respondents filed proceedings for eviction under Section 78 of the Tamilnadu Hindu Religious and Charitable Endowments Act, 1959 (the Act of 1959). Pursuant thereto, it is stated that the first respondent issued an ex-parte order on 10.02.2017. In spite of filing an application to set aside the ex-parte order, the petitioner states that no order was passed on such application. The present writ petition is filed in the said facts and circumstances.

4. Mr.P.Subbaraj, learned counsel for the State, accepts notice on behalf of the first and third respondents and Mr.M.Muthugeethayan, learned counsel, accepts notice on behalf of the second respondent. Mr.M.Muthugeethayan submits that the petitioner did not take any steps to prosecute the application to set aside the order dated 10.02.2017. He also submits that the present writ petition has been filed in view of the action taken to evict encroachers, including the petitioner herein. He also points out that the petitioner has a statutory remedy by way of a revision under section 21 of the Act of 1959.

5. Upon consideration of the above submissions and on examining the documents filed in support of the writ petition, it is evident that the petitioner has not taken any steps to set aside or challenge the order dated 10.02.2017. Although it is stated that the set aside application was filed, it is apparent from the documents on record that such application has not even been numbered till date.

6. As correctly pointed out by learned counsel for the second respondent, the petitioner has a statutory remedy by way of revision under section 21 of the Act of 1959. Ordinarily, such revision should be filed within a period of 90 days from the date of receipt of the impugned order. However, in view of the fact that the petitioner claims that a set aside application was filed and also taking into account the fact that the relevant Sub Section of Section 21 does not state that a petition cannot be entertained after the lapse of the 90 day period, in exercise of extraordinary jurisdiction under Article 226 of the Constitution, the petitioner is permitted to file a revision within a period of 15 days from the date of receipt of a copy of this order. If such revision is filed within the above mentioned 15 day period, the authority concerned is directed to consider such revision petition without going into the question of limitation and dispose of the same on merits. The respondents are directed not to take coercive steps to dispossess the petitioner during the above mentioned 15 day period. Upon expiry thereof, the interim protection granted to the petitioner shall stand revoked ipso facto.



7. W.P.(MD).No.16064 of 2021 is disposed of on these terms without any order as to costs. Consequently, connected W.M.P.(MD). Nos.12934 & 12935 of 2021 are closed.

Sd/-

Assistant Registrar (CS-I)

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Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Joint Commissioner,
Tamilnadu Hindu Religious and
Charitable Endowment Department
Thirunelveli.
- 2.The Executive Officer/Thakkar,
Joint Commissioner of Subramania Temple,
Parvathipuram Udamootu Dharmam
Of Arulmighu Subramania Temple, Tiruchendur,
Nagercoil.
- 3.The Assistant Commissioner,
Tamilnadu Hindu Religious and
Charitable Endowment Department,
Nagarcoil.

+1 CC to M/s.SPL GP (SR-28704[F] dated 09/09/2021)

+1 CC to M/s.G.RAGHUL, Advocate (SR-28568[F] dated 08/09/2021)

+1 CC to M/s.S.SARVAGAN PRABHU, Advocate (SR-28746[F] dated 09/09/2021)

W.P(MD) .No.16064 of 2021
08.09.2021

SRR(CO)
KB(17.09.2021) 3P 7C