



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.6307 of 2022
and W.M.P.No.6401 of 2022

A.Thameemunnisa

.. Petitioner

Vs.

1. The Joint Commissioner
Hindu Religious & Charitable
Endowment Department,
Kancheepuram.
2. The Executive Officer,
Arulmigu Ekambareswarar Thirukovil,
Hindu Religious & Charitable
Endowment Department,
Singaperumal Koil,
Chengalpet.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records relating to the Notice dated 01.12.2021 on the file of the 2nd respondent herein, and quash the same as illegal.

For Petitioner : Ms.G.Sumitra

For Respondents : Mr.N.R.R.Arun Natarajan
Special Government Pleader (HR & CE)

O R D E R

This Writ Petition is filed challenging the Notice dated 01.12.2021 on the file of the 2nd respondent.

2.By consent of the learned counsel appearing for the petitioner as well as the learned Special Government Pleader (HR & CE) who takes notice for the respondents, the Writ Petition is taken up for final disposal at the admission stage itself.

3.The petitioner has come out with the present Writ Petition



challenging the notice dated 01.12.2021 issued by the 2nd respondent, directing her to vacate and hand over the property measuring an extent of 2,050 sq. ft. in Survey No.343, which according to the 2nd respondent, belongs to Arulmigu Ekambareswarar Thirukovil, Hindu Religious & Charitable Endowment Department, Singaperumal Koil, Chengalpattu. According to the petitioner, she is in possession of the property measuring an extent of 5546 sq.ft in S.Nos.344/1, 2A, 2B & 2C, which was purchased by late A.R.Ansar Sahib, in a Court Auction conducted by the learned District Munsif, Chengalpattu on 22.07.1961 in E.P.No.87 of 1961 in O.S.No.241 of 1955. The petitioner, her mother and sister inherited the said property. The patta is transferred in their names for S.Nos.344/1, 2A, 2B & 2C. While so, the Chengalpattu Municipality issued a notice dated 01.04.2019, calling upon the petitioner and her family members to demolish the building in the said property as the building was in dangerous condition. Pursuant to the said notice, the petitioner and her family members demolished the portion, which was in dilapidated condition and the petitioner is residing in the portion, which was standing as on date. While so, one Mr.Annadurai, son of Velu lodged a false complaint against the petitioner and her family members stating that he was a tenant under one A.R.Nazeer in S.No.344 and the petitioner demolished the building, where the said Annadurai was running a Tea Stall. Pursuant to the complaint, the Inspector of Police, D-1 Chengalpattu Police Station referred the matter under Section 107 of Cr.P.C., to the Executive Magistrate-cum-District Revenue Officer. The Revenue Divisional Officer, after enquiry, by the order dated 01.04.2019, held that the property in occupation of the petitioner is in S.No.343 and it is in the name of Arulmigu Ekambareswarar Thirukovil and directed the said Annadurai and petitioner not to enter the property and further directed the 2nd respondent to issue notice to the petitioner and her family members to take possession of the property. The petitioner challenged the order of the Revenue Divisional Officer by filing W.P.No.29738 of 2019. This Court, by the order dated 20.11.2019, quashed the order of the Revenue Divisional Officer and held that if property is in S.No.343, the Department is to retrieve the same as per the provisions of Hindu Religious and Charitable Endowments Act, 1959. Thereafter, the petitioner has given representation dated 12.01.2022 to the 2nd respondent. Since no order was passed on the said representation, the petitioner has come out with the present Writ Petition seeking for the relief stated above.

4.The learned Special Government Pleader (HR & CE) appearing for the respondents submitted that the petitioner has encroached the land in S.No.343, which belongs to Arulmigu Ekambareswarar Thirukovil. The impugned notice issued by the 2nd respondent is valid and legal. The petitioner, without giving any explanation



to the notice, gave representation and has come out with the present Writ Petition, which is not maintainable and prayed for dismissal of the Writ Petition.

5. From the above materials on record, it is seen that according to the 2nd respondent, the petitioner has encroached the land in S.No.343, which belongs to the Arulmigu Ekambareswarar Thirukovil and the petitioner is liable to be evicted. On the other hand, the case of the petitioner is that the petitioner, her mother and sister are in possession of the property in S.Nos.344/1, 2A, 2B & 2C and they have not encroached the property in S.No.343, which belongs to the Arulmigu Ekambareswarar Thirukovil. The order of the Revenue Divisional Officer dated 01.04.2019 holding that the property in occupation of the petitioner forms part of S.No.343, which belongs to the Arulmigu Ekambareswarar Thirukovil, was quashed by this Court and the 2nd respondent was given opportunity to retrieve the property, if the petitioner is in possession of S.No.343. Thus, there is a doubt about the identity of the property namely, whether it is in S.No.343, which belongs to the Arulmigu Ekambareswarar Thirukovil or in S.Nos.344/1, 2A, 2B & 2C, which belongs to the petitioner and her family members. In view of the said doubt, the petitioner is directed to send explanation to the show cause notice sent by the respondent stating all the above details. Both the petitioner and 2nd respondent are directed to survey the property in S.No.343 as well as S.Nos.344/1, 2A, 2B and 2C, by the Taluk Surveyor. If the petitioner and her family members are in occupation of the land in S.No.343, it is open to the 2nd respondent to proceed further to evict the petitioner and her family members.

With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

gsa

To

1. The Joint Commissioner
Hindu Religious & Charitable
Endowment Department,
Kancheepuram.



2. The Executive Officer,
Arulmigu Ekambareswarar Thirukovil,
Hindu Religious & Charitable
Endowment Department,
Singaperumal Koil,
Chengalpet.

+1cc to Ms.G.Sumitra, Advocate, S.R.No.18920
+1cc to the Government Pleader, S.R.No.18725

W.P.No.6307 of 2022

SSD(CO)
CT 05/04/2022