



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2022

C O R A M

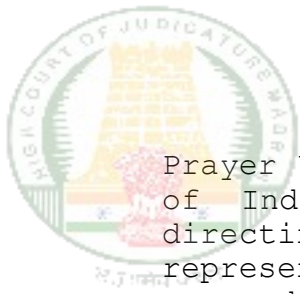
THE HON'BLE MS.JUSTICE V.M.VELUMANI
W.P.No.12396 of 2019

A.Radhakrishnan

Vs

...Petitioner

- 1.The Secretary to Government,
Municipal Administration and
Water Supply Department,
Secretariat,
Chennai - 600 009.
 - 2.The Secretary to Government,
Tourism Culture and Endowments Department,
Secretariat,
Chennai - 600 009.
 - 3.The Director of Panchayats,
Chennai.
 - 4.The Commissioner,
Hindu Religious and Charitable Endowments Department,
No.119, Nungambakkam High Road,
Chennai - 600 034.
 - 5.The District Collector,
Salem.
 - 6.The Deputy Commissioner of Transport,
Salem.
 - 7.The Assistant Director of Town Panchayats,
Salem.
 - 8.The Deputy Inspector General of Police,
Salem.
 - 9.The Executive Officer,
Mecheri Town Panchayat.
 - 10.The Executive Officer,
Arulmigu Pasupatheeswarar Swamy Thirukoil,
Mecheri.
- ... Respondents



Prayer Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus, directing the respondents 1 to 5 to consider the petitioner's representation dated 09.06.2017 and recover the amount from 9th respondent payable to the 10th respondent temple land in S.F.No.175/4B situated at Mecheri, Mettur Taluk, Salem District and also direct the 4th respondent to issue suitable direction to the 10th respondent to administer the above property to fetch income derived from that property.

For Petitioner	: Mr.Marudhachalamurthy. R
For R1 to R3, R5, R7 & R8:	Mr.S.Arumugam Government Advocate
For R4	: Mr.S.Yashwanth Additional Government Pleader
For R9	: Mr.R.Govindasamy
For R10	: Mr.S.P.Yuaraj

ORDER

The petitioner has come out with present Writ Petition for a direction to the respondents 1 to 5 to consider the petitioner's representation dated 09.06.2017 and recover the amount from 9th respondent payable to the 10th respondent temple land and also for a direction to the 4th respondent to issue suitable direction to the 10th respondent to administer the above property to fetch income derived from that property.

2.The petitioner claiming to be the devotee of Arulmigu Pasupatheeswarar Swamy Thirukoil, Mecheri has stated that the land belonging to the 10th respondent was leased out to the 9th respondent-Town Panchayat. The 9th respondent constructed shops and rented out the same to various third parties. The 9th respondent also constructed bus stand and earned huge income, but has not paid the rent to the 10th respondent as per the agreement. Hence, the petitioner made a representation dated 09.06.2017 to the 10th respondent. Since no order was passed on the said representation, the petitioner has come out with the present Writ Petition.

3.When the Writ Petition came up for hearing on 26.04.2019, this Court held that it is a serious matter, which has to be looked into by this Court and instructed the learned Special Government Pleader appearing for the respondents 1, 3, 5 to 8 to get instructions as to why the rent was not paid to the 10th respondent -Temple and as to why action should not be taken against the 9th respondent - Town Panchayat for evicting them from the Temple property.



4. Again, when the Writ Petition came up for hearing before this Court on 12.01.2022, this Court after considering and recording the fact that huge amount is due by the 9th respondent to the 10th respondent, directed the 9th respondent to pay a sum of Rs.13,39,167/- within a period of two weeks from the date of receipt of a copy of that order failing which, further orders would be passed by this Court treating the 9th respondent as an encroacher and the H.R & C.E Department / Temple would be permitted to initiate proceedings against the 9th respondent under Section 78 of the Hindu Religious and Charitable Endowments Act. The 9th respondent has not challenged the said order.

5. When the matter was taken up for hearing on 11.03.2022, Mr.S.Yashwanth, learned Additional Government Pleader appearing for the 4th respondent and the learned counsel appearing for the 10th respondent submitted that the 9th respondent has paid only a sum of Rs.2,00,000/- on 31.01.2022 and subsequently, no amount is paid. The 9th respondent filed counter affidavit and made various averments.

6. Heard the learned counsel appearing for the petitioner, the learned Government Advocate appearing for the respondents 1 to 3, 5, 7 and 8, the learned Additional Government Pleader appearing for the 4th respondent, the learned counsel appearing for the 9th respondent as well as the learned counsel appearing for the 10th respondent and perused the materials available on record.

7. From the materials on record and the order of this court dated 12.01.2022, it is seen that the 9th respondent was directed to pay a sum of Rs.13,39,167/- to the 10th respondent within a period of two weeks, failing which the 9th respondent will be considered as an encroacher and H.R & C.E Department / Temple will be entitled to initiate proceedings to evict the 9th respondent. The 9th respondent has not paid the amount as directed by this Court, not challenged the said order and therefore, he is an encroacher in the land belonging to the 10th respondent - Temple. In view of the same, the H.R & C.E Department/Temple is directed to take action under Section 78 of the Hindu Religious and Charitable Endowments Act, to evict the 9th respondent/Town Panchayat from the temple land.

8. With the above direction, the Writ Petition is allowed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

