



WEB COPY



W.P. No. 28349 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2022

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 28349 of 2022

and

W.M.P. No. 27658 of 2022

A.Srinivasan

... Petitioner

-VS-

1. The Commissioner,
Hindu Religious and Charitable Endowments Department,
119, Nungambakkam High Road,
Chennai – 600 034.
2. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Kottai Mariamman Koil Complex,
Salem – 636 001.
3. The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Kottai Mariamman Koil Complex,
Salem – 636 001.
4. The Inspector,
Hindu Religious and Charitable Endowments Department,
Sankari,
Salem District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the First Respondent to pass appropriate orders and forbearing the Second to Fourth Respondents in



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taking action upon the Petitioner's property in S.F. No. 85/2 Kandarkulamanickam Village, Sankari Taluk, Salem District without following due process of law by considering the Petitioner representation dated 17.07.2022.

For Petitioner : Mr. R.Marudhachalamurthy

For Respondents : Mr. N.R.R.Arun Natarajan,
Special Government Pleader

ORDER

Heard Mr. R.Marudhachalamurthy, Learned Counsel for the Petitioner and Mr. N.R.R.Arun Natarajan, Learned Special Government Pleader who takes notice for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. It is the case of the Petitioner that he is the owner of the property to an extent of 1.75.0 hectare comprised in S.F. No. 85/2 situated at Kandarkulamanickam Village, Sankari Taluk, Salem District, which has been confirmed by judgment and decree dated 03.01.2013 in S.A. No. 525 of 2005 passed by the Court, but the Respondents are disturbing his peaceful possession and enjoyment of that property by claiming as if it belongs to a Temple. In that backdrop, the Petitioner claims to have made a representation dated 17.07.2022



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to the First Respondent for directing him to prevent the Second to Fourth Respondents from taking any action in respect of that property without following due process of law, and the Writ Petition had been filed for directing the First Respondent to pass orders thereon.

3. Learned Special Government Pleader appearing for the Respondents asserts that the said property belongs to Arulmigu Kottai Mariamman Koil as entered in the revenue records for which Patta No. 423 of Kandarkulamanickam Village, Sankari Taluk, Salem District has been produced, while pointing out that the judgment and decree dated 03.01.2013 in S.A. No. 525 of 2014 passed by the Court would not bind the said Temple as it was not a party to the proceedings and it relates to certain third parties. It is further brought to notice that the Tahsildar, Sankari Taluk, Salem District by Order in No. Na. Ka. 3625/ 2022-B dated 25.10.2022 has rejected the representation dated 17.07.2022 made by the Petitioner for mutation of his name in the revenue records and its copy has been produced. It is also informed that on noticing the encroachment in the said property, action has been initiated for its removal following the prescribed procedure under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, and he has made endorsement to that effect in the court



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record. In this context, it must be pointed out that a mere contemplation or possibility that a right may be infringed, without any legitimate basis for that right, would not give rise to a cause of action. In view of the aforesaid submissions made by the Respondents supported by relevant documents, which deserves acceptance, it is not possible to grant relief sought by the Petitioner in the Writ Petition.

4. In the result, the Writ Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

27.10.2022

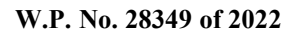
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Index: Yes/No

Note: Issue order copy by 17.11.2022.

To

1. The Commissioner,
Hindu Religious and Charitable Endowments Department,
119, Nungambakkam High Road,
Chennai – 600 034.
2. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Kottai Mariamman Koil Complex,
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3. The Assistant Commissioner,



4. The Inspector,
Hindu Religious and Charitable Endowments Department,
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P.D. AUDIKESAVALU, J.

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