



W.P. (MD) No. 13881 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.12.2022

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

W.P. (MD) No. 13881 of 2021

Tamilselvi

... Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable
Endowment Department,
Uthamar Gandhi Road,
Nungambakkam, Chennai.

2.The Joint Commissioner,
O/o.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Sivagangai Zone, Sivagangai District.

3.The Joint Commissioner / Executive Officer,
O/o.The Joint Commissioner / Executive Office,
Hindu Religious and Charitable Endowment Department,
Arulmighu Ramanathaswamy Temple,
Rameshwaram, Ramanathapuram District.

4.The Tahsildar,
Rameshwaram Taluk,
Ramanathapuram District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issue of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.59/2012/Aa3-5, dated 24.07.2021 issued by the third respondent and quash the same as illegal and arbitrary and consequently forbear the respondents from evicting the petitioner in her dwelling house property in Survey No.615/3, to an extent of 2.20 cents, situated at Agasthiyar Theertham, Rameshwaram, Ramanathapuram District.

For Petitioner	: Mr. D.Balamurugapandi
For R1, R2 & R4	: Mr. P.Subbaraj Special Government Pleader
For R3	: Mr. S.Ramesh

ORDER

Heard Mr. D.Balamurugapandi, Learned Counsel for the Petitioner, Mr. P.Subbaraj Learned Special Government Pleader for the First, Second and Fourth Respondents and Mr. S.Ramesh, Learned Counsel for the Third Respondent and perused the materials placed on record apart from the pleadings of the parties.



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2. The Petitioner has challenged the notice in Proceedings Na. Ka. No. 59/2012/Aa3-5 dated 24.07.2021 sent by the Third Respondent calling upon her to vacate and hand over possession of the property of an extent of 33 cents in Survey No. 615/3 in Agasthiyar Theertham in Rameshwaram belonging to the Temple of the Third Respondent, which is said to have been encroached by her, in this Writ Petition.

3. If it is the case of the Petitioner that she is the owner of the said property and the Temple of the Third Respondent does not have any title for the same, she would have to submit her objections to the said notice by sending her reply with supporting documents, and in the event of the Third Respondent declining to accept her version, she would have to seek declaration of her title to that property and other consequential reliefs by filing of a civil suit before the jurisdictional Civil Court in that regard. It is needless to add here that if the Petitioner does not voluntarily hand over vacant possession of the property, the Third Respondent would have to initiate appropriate legal proceedings before the concerned Authority for her eviction including resort to the procedure prescribed in Section 78 of the Hindu Religious and Charitable Endowments Act, 1959, and the



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Petitioner could raise her objections before any final decision is taken therein. In other words, no cause of action can be said to have arisen at this pre-mature stage under the contemplation of a possibility that a right of the Petitioner may be infringed so as to invoke the discretionary powers of this Court under Article 226 of the Constitution. Though obvious, it is made clear that no view has been expressed by this Court on the merits of the controversy involved between the parties.

4. In the result, the Writ Petition, which is misconceived, is dismissed with the aforesaid observations. Consequently, connected Miscellaneous Petition is closed. No costs.

21.12.2022

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Index : Yes/No

Note: Issue order copy by 25.01.2023.



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P.D. AUDIKESAVALU, J.

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