



W.P(MD).No.16902 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.07.2022

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P(MD).No.16902 of 2022

and

W.M.P(MD).Nos.12314 and 12315 of 2022

Chandrasekharan Unni

... Petitioner

Vs.

The Executive Officer,
Arulmigu Mahadevar Thirukkivil,
Thickurichy,
Vilavancode Taluk,
Kanyakumari District.

...Respondent

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 of the respondent, pertaining to his order in Notice No.Nil, dated 20.07.2022 on his file, quash the same.

For Petitioner : Mr.K.N.Thampi
For Respondent : Mr.V.R.Shanmuganathan

ORDER

The contention of the petitioner is that the petitioner received with a impugned notice, dated 20.07.2022. By the impugned notice, dated



20.07.2022, the respondent stated that the temple property in Survey No. 829/17 of punja land of 2280 square feet is being encroached by the petitioner and put up a construction in the said property. Hence, the petitioner issued with a notice that if the petitioner fails to hand over the property to the respondent, he would face appropriate action taken through police. On such apprehension, the petitioner filed this writ petition.

2. He further submitted that the property of 37 cents of land and trees and buildings in old Survey No.39 of the then-Pacode Village, Thiruvananthapuram District was mortgaged to Krishnan, who was petitioner's paternal grandfather, under registered mortgage deed, dated 04.04.1084(M.E.) corresponding to 1908 A.D. According to the said mortgage deed, the mortgaged was to pay six fannams per year to the owner of the property, namely, the Thickerichy Devaswom, belonging to Namboothiri family, Kerala.

3. After the death of the petitioner's grandfather, petitioner's father, namely Purushothaman Unni, obtained the said property. One Govindaru Namboothirippadu of the above said family in Kerala, who was the then-owner of the property, executed a registered permanent lease deed, dated 14.04.1966 in favour of the petitioner's deceased mother, namely, Saraswathi



Amma. According to the permanent lease deed, the lessee was to pay Rs.4 per year to the above said Thickurichy Devaswom. After the petitioner's father death, there was a registered partition on 12.06.1987 among the petitioner's father heirs, wherein the above said property was partitioned along with other properties, the petitioner and his sister, P.S.Rugmony, were allotted shares in the above said property. After the death of the petitioner's mother, her rights were inherited by petitioner and his sister. Subsequently, the petitioner submitted that there are documents with respect to the said property, which the petitioner not deal with it. The petitioner is in possession and enjoyment of the property by paying land tax for the property and house tax to the jurisdictive Pacode Town Panchayat for buildings.

4. After the re-organisation of states as per the States Re-organisation Act and consequential formation of Kanyakumari District, the Hindu Religious and Charitable Endowments Department came into the picture with regard to the above said property, claimed to be of Thickurichy Devaswom. Thereafter, lease amounts for the property being paid to the said Department, by way of money orders and sometimes directly, the Department accepted the same and issued receipts to the petitioner. As per the traditional occupation, the petitioner is doing service in Hindu temples, especially by assisting the priests. This being so, the respondent issued threat notice, dated 20.07.2022.



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The respondent has no authority in law to issue such notice. Hence, prayed for the same to be quashed.

5. The learned counsel for the respondent submits that it is only an intimation notice as the petitioner is an encroacher of the temple property and now raises various defences stating that the property devolved by the erstwhile Devaswom Board. Now steps initiated to issue notice under Section 78 of the HR&CE Act. This information notice is of no significance presently.

6. In view of the same, this Court directs the respondent not to take any action pursuant to the impugned notice and he is free to take steps in accordance with law as per the HR&CE Act. The writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

29.07.2022

Index : Yes / No
Internet : Yes/ No
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Note: Issue order copy on 01.08.2022

To
The Executive Officer,
Arulmigu Mahadevar Thirukkivil,
Thickurichy,
Vilavancode Taluk,
Kanyakumari District.



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M.NIRMAL KUMAR, J.

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