



W.P(MD).No.20173 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.08.2022

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P(MD).No.20173 of 2022

and

W.M.P(MD)Nos.14672, 14673 and 14674 of 2022

C.Indumathi

... Petitioner

Vs.

1.The Joint commissioner,
Hindu Religious and Charitable Endowments Department,
Trichy.

2.The Joint Commissioner/Executive Officer,
Arulmighu Ranganathaswamy Temple,
Srirangam, Trichy.

3.TJayaraman

...Respondents

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 comprised in the impugned order, dated 25.07.2022 in M.P.No.89 of 2019 on the file of the first respondent and quash the same as arbitrary, illegal and contrary to principles of natural justice.

For Petitioner	: Mr.Raguvaran Gopalan
For R1	: Mr.M.Lingadurai Special Government Pleader
For R2	: Mr.M.Saravanan



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ORDER

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The petitioner filed this writ petition seeking for quashing of the order passed in M.P.No.89 of 2019, dated 25.07.2022 by the first respondent.

2. The contention of the petitioner is that the property in TS No.2202 in Vellithirumutham Village, Srirangam Town, Trichy District measuring 0.71 cents originally belonged to one Duraisamy, who had been allotted the same by way of registered partition, dated 17.08.1994 as D Schedule in Document No.2130 of 1944. The said Duraisamy has two wives, namely, Rajamani and Marudhamabi and two sons, namely, Nakeeran and Arulnambi. The Rajamani and Marudhamabi by Document No.1940 of 2000, dated 19.07.2000 sold their 1/9th undivided share in the property to late Chandrakanth Baligar, the petitioner's husband. The recitals in the sale deed itself state that as the property was received by late Duraisamy in family partition, upon his death in 1988, a notional partition was made and Rajamani and Marudhamabi together inherited undivided 1/9th share of the property. After the purchase of the property, the petitioner's husband was in joint possession of the property with Nakeeran and Arulnambi. The petitioner's husband passed away on 23.12.2012.



3. The second respondent temple started dumping construction rubble in the adjacent property in TS No.2204 and TS No.2203. The petitioner object the same and sent representation to the temple. This being so, in the year 2015, the employees of the temple destroyed the fence on the petitioner's property. When the petitioner and her son approached the second respondent, they were treated in a high handed manner and were not given a patient hearing. The petitioner and her children filed a suit for permanent injunction against the second respondent in O.S.No.1415 of 2015 on the file of the District Munsif Court, Trichy. This was subsequently, transferred to the District Munsif Cum Judicial Magistrate Court, Srirangam and renumbered as O.S.No.433 of 2019. The temple authorities are the defendant in the suit have not made dispute nothing with regard to what is made in the impugned order. Further, the temple authorities knowing well about the status of the suit, filed their written statements and ought to have made the petitioner as a party to the proceedings initiated under Section 78 of the Act on the other hand only made Jayaraman as party proceeded with an ulterior motive. The petitioner was denied the right of being heard, which is in gross violation of principles of natural justice. Hence, filed this petition.



4. The learned Special Government Pleader for the first respondent submits that the temple authorities following the procedure under Section 78 of the Hindu Religious and Charitable Endowments Act, finding that the third respondent is an encroacher and passed the impugned order. Prior to it, the Assistant Commissioner, Hindu Religious and Charitable Endowments Department had conducted an enquiry and found that the third respondent having no title or right over the property. Based on the report, M.P.No.89 of 2019 taken on file, conducted enquiry and third respondent was served with the notice, participated in the proceedings, made his objections and thereafter finding that there is no merits in the third respondent's contention and declared the third respondent as an encroacher and to remove him following the Rules and Procedures.

5. The learned counsel for the second respondent submits that the property is an inam property. The petitioner's husband is a party in proceedings in C.M.A.No.64 of 1978 before the Inam Abolition Tribunal and the Tribunal by its order, dated 12.12.1979 found that the property falls under Section 8 (2) (11) of the Act. Hence, declared that it is an inam land and patta was granted in the name of the temple in TS No.2202 for 0.71 cents as could be seen from the extract of Town Survey Land Register of the temple. The Adangal also contained the name of the temple. He further submits that there



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is no STA files against C.M.A.No.64 of 1978. In view of the same, the land has been declared as inam lands. At that point of time, it can be alienated and the temple alone is to enjoy the temple lands. If at all any order is to be passed, statutory provision under Section 11 of the Hindu Religious and Charitable Endowments Act not to be given. Further, it is not a land covered under Section 13 of the Hindu Religious and Charitable Endowments Act, the petitioner can claim any right. There are 13 shops put by the encroacher and nothing more. The petitioner keeping watch over the proceedings, which has been initiated in the year 2019. After four years, now challenged the order of the Joint Commissioner, Hindu Religious and Charitable Endowments Department on the ground of principles of natural justice, which is not proper. The petitioner ought to have impleaded as a party in the proceedings under Section 78 of the Hindu Religious and Charitable Endowments Act and made his submission and not filing this writ petition. In any event, once the land is declared as inam, it is always an inam land. In view of the same, the vendor of the petitioner himself has no right to execute the sale deed for the temple property. He further submitted that the suit is filed for seeking injunction against the second respondent. The petitioner is well aware about the status of the property. Hence, he prayed for dismissal of the writ petition.



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6. This Court finds no merits and not inclined to entertain this writ petition. Hence, the writ petition stands dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

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Index : Yes / No
Internet : Yes/ No
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To

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