



W.P.No.5717 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :25.07.2023

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.5717 of 2023

and

W.M.P.No.5723 of 2023

Senthilvadivu

...Petitioner

Vs.

1.The Union of India
Union Territory of Puducherry,
Represented by its Chief Secretary
Secretariat
Puducherry.

2.The Commissioner,
Hindu Religious Institutions,
Puducherry.

3.Sri Battabirama Swami Devasthanam
Mathikrishnapuram,
Manapet Post,
Puducherry.

..Respondents.



PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents not to evict the petitioner from the property situate in Puducherry Registration Jurisdiction, Bahour Sun Registration District, Bahour Commune Panchayat village, No.81, Manapet, Wet Survey No.15/2B, cadaster No.46/4/32 to an extent of 3 kanes comprised in patta No.220 bounded on East by: the lands of Marry Church, West by: Raghavendra Nagar, North by: Masilamani's land, South by: the River Canal, without following the provisions of the Puducherry Cultivating Tenants Protection Act, 1970.

For Petitioners	: Mr.D.Ravichander
For Respondents 1 & 2	:Mr. M.Nirmal Kumar Government Advocate
For respondent 3	: Mr.v.Vadivelou

ORDER

The writ petition is filed seeking issuance of a writ of mandamus directing the respondents not to evict the petitioner from the property situated in Puducherry Registration Jurisdiction, Bahour Sun Registration District, Bahour Commune Panchayat village, No.81, Manapet, Wet Survey No.15/2B, cadaster No.46/4/32 to an extent of 3 kanes comprised in patta No.220



bounded on East by: the lands of Marry Church, West by: Raghavendra Nagar, North by: Masilamani's land, South by: the River Canal, without following the provisions of the Puducherry Cultivating Tenants Protection Act, 1970.

2. It is the case of the petitioner that above mentioned property belonged to the 3rd respondent temple and the same has been leased out to the petitioner in an open auction. It is also claimed by the petitioner that he is cultivating the above said land by contributing his physical labour and therefore he is entitled to protection from eviction under the provisions of Puducherry Cultivating Tenants Protection Act, 1970. It is also further averred by the petitioner when the 3rd respondent trustee of the temple attempted to interfere with the possession of the petitioner, he filed a Civil Suit in O.S.No.2377 of 2016 against the 3rd respondent. Thereafter, the above said land was brought in open auction by the 3rd respondent and again the petitioner became successful bidder and consequently, 3rd respondent had executed a lease agreement in favour of the petitioner on 14.11.2019. It is further stated by the petitioner that subsequently the 3rd respondent appeared to have let out the properties orally to third parties and the said third parties are attempting to interfere with the



petitioner's possession. The term of office of 3rd respondent is already over and taking advantage of the fact that the 2nd respondent has not appointed any new Trustees, the 3rd respondent is trying to interfere with the possession of the petitioner.

3. Mr.M.Nirmal Kumar, learned Government Advocate (Puducherry) for the 1st and 2nd respondents submits that Section 4(1) of Puducherry Religious Act which enable the official respondent to appoint Trustees to the temple has been declared unconstitutional by this Court as early as on 10.12.1986. Therefore, the 2nd respondent is not in a position to make any appointment to the trusteeship of the 3rd respondent.

4. The main allegation made by the petitioner in this case is 3rd respondent is trying to lease out the property to a third party and they are trying to interfere with the possession of the petitioner. If that be the case, it is for the petitioner to move competent Civil Court to work out his remedy in the manner known to law. Therefore, the petitioner has not made out any case for issue of a writ of mandamus.



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5. Accordingly, the writ petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.

25.07.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
nr

To

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Represented by its Chief Secretary
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Puducherry.

2.The Commissioner,
Hindu Religious Institutions,
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S.SOUNTHAR, J.

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