



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.10309 of 2023
and W.M.P. No.10288 of 2023

V.Vasanthkumar

Petitioner

VS.

1.The Joint Commissioner,
Hindu Religious & Charitable Endowments,
Office of the Joint Commissioner,
Erode District,
Erode.

2.The Assistant Commissioner,
Hindu Religious & Charitable Endowments,
Namakkal.

3.The Executive Officer,
Arulmighu Lakshmi Narayanaswami & Kasivisuveswaraswami Thirukoil,
Komarapalayam Town & Taluk,
Namakkal District.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to proceedings of the 1st Respondent dated 15.02.2023 in Miscellaneous Petition No.82/2023/A1 and quash the same and consequently direct the 1st Respondent to permit the Petitioner to defend the proceedings in Miscellaneous Petition No.82/2023/ A1 .



For Petitioner : Mr.K.Selvaraj
For Respondents : Mr.N.R.R.Arun Natarajan
Special Government Pleader

ORDER

This writ petition has been filed challenging the proceedings of the 1st respondent in Miscellaneous Petition No.82/2023/A1, dated 15.02.2023 and for a direction to the 1st respondent to permit the petitioner to participate in the proceedings that have been initiated by the HR & CE Department under Section 78 (2) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (hereinafter referred to as "the Act").

2.Heard Mr.K.Selvaraj, learned counsel appearing on behalf of the petitioner and Mr.N.R.R.Arun Natarajan, learned Special Government Pleader appearing on behalf of the respondents.

3.The grievance of the petitioner is that the subject property was purchased by the petitioner through a registered Sale Deed dated 17.08.1973 along with leasehold rights. The further case of the petitioner is that his brother also purchased the adjacent property and he registered the Sale Deed executed on the same day i.e., on 17.08.1973. Thereafter, there was a compromise between the



parties in a pending litigation and thereby, the petitioner became the absolute owner of the property purchased by him and also that was purchased in the name of his brother totally measuring an extent of 1500 Sq.ft. along with leasehold rights.

4.The grievance of the petitioner is that the 3rd respondent has served the impugned notice dated 15.02.2023 in the name of Venugopal, who is the father of the petitioner under Section 78(2) of the Act in order to evict the petitioner from the subject property. According to the petitioner, his father died long back and hence, he appeared during the hearing conducted by the 1st respondent, but however, he was not permitted to defend himself on the ground that the notice has been issued in the name of Venugopal. Aggrieved by the same, the present writ petition has been filed before this Court.

5.In the considered view of this Court, the notice has been served in the name of one Venugopal, who is the father of the petitioner and he is dead and gone long back. The petitioner claims to be in possession and enjoyment of the subject property and hence, the eviction proceedings initiated by the 1st respondent will directly affect the rights of the petitioner. In view of the same, it will be more appropriate, if the notice is issued in the name of the petitioner before the orders are passed in the eviction proceedings. This will enable the petitioner to put forth



his defence and the same can be considered by the 1st respondent on its own merits and in accordance with law. Passing an order in the name of a dead person will only complicate the proceedings and drag on the proceedings. Hence, issuing notice in the name of the petitioner and proceeding further will balance the rights of both the parties.

6.The learned Special Government Pleader appearing on behalf of the Department submitted that a fresh notice will be issued in the name of the petitioner and the Department will proceed further in accordance with law.

7.In view of the above, this writ petition is disposed of with a direction to the respondents to issue a fresh notice in the name of the petitioner and proceed further with the proceedings initiated under Section 78 of the Act, after affording opportunity to the petitioner and pass orders on its own merits and in accordance with law. No Costs. Consequently, connected miscellaneous petition is closed.

10.04.2023

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

(2/2)



To

WEB COPY

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N. ANAND VENKATESH, J.

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