



WEB COPY



W.P.No.22386 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :28.07.2023

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THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.22386 of 2023

and

W.M.P.Nos.21780, 21781, 21782 of 2023

1.M.Babu
2.M.Palani

...Petitioners

Vs.

- 1.The Secretary to Government,
Hindu Religious and Charitable Endowment,
Fort St. George,
Chennai – 600 009.
- 2.The Commissioner,
Hindu Religious and Charitable Endowment,
Nungambakkam, Chennai – 600 034.
- 3.The Joint Commissioner,
Hindu Religious and Charitable Endowment,
Salem.
- 4.The Managing Trustee,
Rep. by its Arulmigu Selliamman Mariamman Thirukoil
Kumarasamy Pettai,
Dharmapuri District.



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5.The Executive Officer,
Arulmigu Selliamman Mariamman Thirukoil
Kumarasamy Pettai,
Dharmapuri District.

..Respondents.

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records connected with the impugned order passed by the 5th respondent proceedings dated 14.04.2023 and 12.05.2023 and quash the same.

For Petitioners : Mr.M.Selvam

For Respondents 1to 3& 5 : Mr.K.Karthikeyan
Government Advocate(HR &CE)

ORDER

The petitioner herein filed this writ petition challenging the order passed by the 5th respondent dated 14.04.2023 and 12.05.2023.

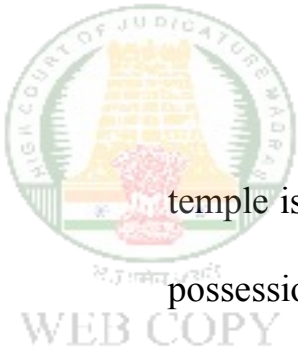
2.According to the petitioner, he is residing in the land situated in Survey No.228 and 227, Ward-A, Block-9, Dharmapuri Nagar for the past 75 years. In the year 2020, the 5th respondent herein claimed that the said property belonged to the 5th respondent temple and insisted the petitioner to pay rent. The petitioner claimed right over the said land by virtue of their continuous and



uninterrupted possession for many years and refused to pay rent. It is also stated by the petitioner that as per the revenue records, the above said land is a Government poramboke land and no way connected with 5th respondent temple. Now, the 5th respondent passed impugned order directing the petitioner to hand over the possession. Aggrieved by the same, the petitioner is before this Court.

3. Mr.K.Karthikeyan, learned Government Advocate(HR &CE) taking notice for the respondents 1 to 3 and 5 on instructions submits that based on the resolution passed by the 4th respondent trustee, the 5th respondent passed the impugned order directing the petitioner to hand over the possession. It is also stated that as per the revenue records, the property stands in the name of temple. The petitioner also paid rent for some time accepting the title of the temple and the same was accepted by the 5th respondent for use and occupation.

4. This Court sitting in writ jurisdiction cannot decide a rival claim of the parties with regard to the title. However, even assuming the 5th respondent



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temple is the owner of the property, it is not open to the 5th respondent to take possession of the property without following due process of law.

5. In case the 5th respondent decides to proceed with further action in pursuance of order impugned in this writ petition, it is for him to follow the procedure established by law either by moving the Joint Commissioner under Section 78 of HR & CE Act or by filing Civil Suit for recovery of possession.

6. The 5th respondent is not entitled to disturb the possession of the petitioner, without following due process of law.

7. With these observations, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

28.07.2023

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



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S.SOUNTHAR, J.
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