



WEB COPY



W.P.No.18646 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2023

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

W.P.No.18646 of 2023

C.Devanathan

... Petitioner

Vs.

1.The Tahsildar,
Puducherry.

2.The Superintendent of Police (South),
Office of the Superintendent of Police (South),
Puducherry.

3.The Inspector of Police,
Mudaliarpeth Police Station, Puducherry.

4.Ravi @ Subrayan

... Respondents

Prayer : Writ Petitions filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 2nd and 3rd respondents herein to take cognizance of the complaints of the petitioner dated 04.03.2023, 06.03.2023, 15.03.2023, 18.03.2023, 29.03.2023, 30.03.2023, 03.04.2023, 09.04.2023 and 18.04.2023 and proceed in accordance with law against the fourth respondent by initiating appropriate action for disobedience of the order of the Tahsildar,



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Puducherry, the first respondent herein dated 02.03.2023 in No.6437/TOP/D/2022.

For Petitioner : Mr.D.Rajagopal

For Respondents : Mr.K.Sreedharan
Additional Government Pleader
(Puducherry) [R1 to R3]
Ms.M.N.Sumathi [R4]

ORDER

This Writ Petition has been filed seeking for a Writ of Mandamus, to direct the respondents 2 and 3 to take cognizance of the complaints of the petitioner dated 04.03.2023, 06.03.2023, 15.03.2023, 18.03.2023, 29.03.2023, 30.03.2023, 03.04.2023, 09.04.2023 and 18.04.2023 and proceed in accordance with law against the fourth respondent by initiating appropriate action for disobedience of the order of the Tahsildar, Puducherry, the first respondent herein dated 02.03.2023 in No.6437/TOP/D/2022.

2. Mr.K.Sreedharan, learned Additional Government Pleader (Puducherry) takes notice for the respondents 1 to 3 and Ms.M.N.Sumathi, learned counsel takes notice for the fourth respondent.



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In view of the consent expressed by the learned counsel appearing on either side, this petition is taken up for final disposal.

3. The case of the petitioner is that, the temple dedicated to Sri Varadharaja Swamy situated at No.270, Cuddalore Road, Mudaliarpet, Puducherry – 605 004, which was established by the forefathers of the petitioner and the petitioner is the present Hereditary Trustee of the temple. The fourth respondent is a tenant under the temple premises running a Arts School. The renovation work of the temple is being carried on and as the portion under the occupation of the fourth respondent also require renovation as it is in a dilapidated condition and after renovation, the said portion is required by the Temple. Therefore, he made a request to the fourth respondent to vacate and handover the premises in his possession and occupation to the temple to carryout the renovation work. However, the fourth respondent, though initially agreed to vacate and handover possession, later on refused to hand over possession. Therefore, the petitioner submitted a representation to the first respondent and after enquiry, the first respondent passed an order in proceedings No.6437/TOP/D/2022 dated 02.03.2023 directing the fourth respondent



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to refrain from running the Arts School as it poses danger to the students, who attend the classes. However, the order passed under Section 144 of the Criminal Procedure Code by the first respondent was not implemented till date. Hence, the petitioner has filed the above writ petition before this Court for implementation of the order passed by the first respondent dated 02.03.2023.

4. Though very many grounds have been raised in the above writ petition, the learned counsel for the petitioner submits that, it would suffice, if this Court issues a direction to the first respondent to implement their own order dated 2.03.2023, within a time frame that may be fixed by this Court.

5. The learned counsel appearing for the fourth respondent and the fourth respondent appeared before this Court and submitted that the first respondent with a malafide intention passed the impugned order as against the fourth respondent, against which, he preferred an appeal and the same was not disposed of. Further, it is submitted that the petitioner has not approached this Court with bonafide claim and since the fourth



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respondent was running Arts School for more than 40 years, the petitioner has to vacate the fourth respondent in the manner known to law and not by approaching the first respondent. Accordingly, he prays for appropriate orders.

6. The Additional Government Pleader (Puducherry) appearing for the respondents 1 to 3 submitted that the order of the first respondent dated 02.03.2023 will be implemented if there is no legal impediment, within a reasonable time that may be fixed by this Court.

7. Heard the learned counsel appearing for the parties and perused the materials available on record.

8. Admittedly, the petitioner is the Hereditary Trustee of Sri Varadharaja Swamy Temple situated at No.270, Cuddalore Road, Mudaliarpet, Puducherry – 605 004 and the fourth respondent entered the said temple as a tenant and running a Arts School for more than four decades. The temple authorities having found that temple was in dilapidated condition, decided to renovate the temple including the land



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in which the fourth respondent is running Arts School, to conduct Samprokshanam in the said temple. Hence, they approached the first respondent and the first respondent also passed an order in favour of the petitioner under the Criminal Procedure Code.

9. Further, it is even the case of the fourth respondent that against the order passed by the first respondent, the fourth respondent preferred appeal, which has been disposed of. However, assailing the said order, no further legal remedy has been sought for. In the above circumstances, this Court is of the view that the claim made by the fourth respondent cannot be stated to be genuine more so when it is the case of the petitioner that the temple requires renovation, which is sought to be done and that the portion occupied by the fourth respondent for running the school is also in a dilapidated condition. It is not the case of the petitioner for eviction of the fourth respondent. Rather the removal of the fourth respondent is sought for only for the purpose of carrying out the renovation.

10. In the aforesaid circumstances, the first respondent having



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passed the order, has to implement its own order by removing the fourth respondent from the place and it would not be in *stricto sensu* eviction, as for the purpose of eviction, the petitioner has to resort to the legal remedies available. In such view of the matter, necessarily the first respondent has to be directed to implement their own order dated 02.03.2023, if there is no legal impediment for removing the fourth respondent.

11. Accordingly, this writ petition is disposed of by directing the first respondent to implement its order dated 02.03.2023 within a period of four weeks from the date of receipt of a copy of this order. No costs.

30.06.2023

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes / No

sp

To

1.The Tahsildar,
Puducherry.

M.DHANDAPANI, J.



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sp

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2.The Superintendent of Police (South),
Office of the Superintendent of Police (South),
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