



CRP. No. 4019 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.10.2023

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRP No. 4019 of 2023
& CMP No. 24594 & 24595 of 2023

P.C.Bhaskar

...Petitioner

Vs.

- 1.The Commissioner,
Hindu Religious and Charitable,
Endowments Department,
No.129, Uthamar Gandhi Street,
Nungambakkam, Chennai - 600 034.
- 2.The Joint Commissioner,
Hindu Religious and Charitable,
Endowments Department,
Vellore Division, O/o. Joint Commissioner,
Hindu Religious and Charitable,
Endowments Department, Sathucheri, Vellore - 9.
3. The Thakkar/Executive Officer,
Siddhi Buddhi Vinayagar Temple,
Varadharajapuram,
Poonamallee,
- 4.The Indian Bank,
Thousand Lights Branch,
Chennai - 600 006.



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....Respondents

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PRAYER : This petition filed under Article 227 of the Constitution of India, to set aside the docket order dated 17.10.2023 passed in I.A No. 2 of 2022 in O.S No. 186 of 2022 on the file of the learned Additional District Munsif, Poonamallee.

For Petitioner : Mr.R.Parthasarathy
For R1 to R3 : Mr.N.R.R.Arun Natarajan,
Special Government Pleader.

ORDER

This petition has been filed to set aside the docket order dated 17.10.2023 passed in I.A No. 2 of 2022 in O.S No. 186 of 2022 on the file of the learned Additional District Munsif, Poonamallee.

2. The learned counsel for the petitioner submits that the petitioner herein filed I.A No. 2 of 2022 in O.S No. 286 of 2022 for ad-interim injunction restraining the respondents from claiming any right or benefit in respect of the subject property of the petitioner. On the other side, the respondents 1 to 3 having entered appearance as early as in the year 2022 and evaded to file any counter affidavit in the said application. Despite the



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fact that the Trial Court adjourned the application without passing the order.

Furthermore, the petitioner running a hotel and marriage hall in the subject premises, hence they failed to advance the arguments before the Trial Court in order to take coercive action against the petitioner in respect of subject premises but the Trial Court erroneously adjourned the matter on 20.11.2023. Hence, the necessity arose for the petitioner to file this petition to set aside the docket order dated 20.11.2023.

3. Further, he submits that an extent of 1 acre 1 cent situated in S.No. 390/1B is absolutely owned and possessed by the petitioner herein hereditarily. The above is part of the larger extent of land measuring 3.22 acres comprised in survey No. 390/1B1B in Varadharajapuram Village, Poonamallee Taluk, Thiruvallur District. As the respondents 1 to 3 have no rights whatsoever over the said property nor the property belongs to the temple without jurisdiction the joint commissioner passed order and the same was confirmed by the Commissioner HR&CE declaring the plaintiff's as encroacher. Thereby, directed the petitioner to vacate from the above said land. Challenging the said order, the petitioner filed the suit. In the meanwhile, the Temple authorities attempted to sell the premises by coercive steps. The Trial Court also not inclined to proceed temporary



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injunction petition. Hence, the petitioner filed this petition.

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4. The learned Government Pleader submits that the HR&CE department has given valid opportunity to the petitioner and the petitioner also filed his objection. On hearing both side, the Commissioner concluded that the Temple is the owner of the said land and rightly declared the petitioner as encroacher thereby as per Section 78 of the Act he is liable and the Civil Court has no jurisdiction to try the case.

5. Admittedly, challenging the order passed by the joint commissioner the suit was filed by the plaintiff in which he filed application in I.A No. 2 of 2022 seeking for interim injunction. As per the HR & CE Act, the sufficient opportunity was given to the petitioner. Furthermore, the prayer sought by the petitioner as such is not maintainable one. Considering the above, this petition is dismissed. No costs. Consequentially, connected miscellaneous petition is closed.

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To
The Additional District Munsif, Poonamallee.



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T.V.THAMILSELVI,J.

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