



WEB COPY



W.P.No.31112 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26..10..2023
Coram

THE HON'BLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

Writ Petition No.31112 of 2023
&
W.M.P.Nos.30736 & 30737 of 2023

R.Thara

..... Petitioner

-Versus-

- 1.The Estate Officer,
The Tamil Nadu Waqf Board,
No.1, Jaffer Syrang Street,
Vallal Seethakadhi Nagar,
Mannady, Chennai 600 001.
- 2.The Deputy Commissioner of Police,
Avadi, Thiruvallur District.
- 3.Syed Sadiq Mosque and Dargha,
Rep. by its President & Muthawalli,
Kundrathur Main Road,
Mangadu Village, Chennai 602 101.

..... Respondents

Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order dated 31.03.2023 in PP.No.99/CGT/2022 passed by the 1st respondent, quash the same as it is as against the principle of natural justice, without jurisdiction, ultravires, arbitrary and illegal and consequently direct the 1st respondent not to evict the petitioner from the property measuring an



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extent of 2342 square feet out of 7092 square feet in Plot No.F, bearing S.No.494/1, New Sub-Division S.No.494/1A2 bearing Patta No.3586 situated in Mangadu Village, Sriperumbudur Taluk, Kanchipuram District.

For Petitioner : Ms.A.Ajimath Begum

*For Respondent (s) : Mr.Haja Mohideen Gisti
for R1*

ORDER

This writ petition is filed challenging an order dated 31.03.2023 passed under the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act, 1975 (Tamil Nadu Act 1 of 1976) by the 1st respondent [in short “the TN Act No.1 of 1976”].

2. Heard both sides.

3. Admittedly, there is an appeal provided as against the order impugned in the writ petition under Section 9 of the TN Act 1 of 1976.

4. The learned counsel for the petitioner submits that since the petitioner, viz., R.Thara, was not served with a notice, she is entitled to approach this court.



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5. It is seen that the petitioner's husband-Rajavelu has been served with a notice and even in the counter affidavit filed in the eviction proceedings, the petitioner's husband did not even whisper that he has already executed a sale deed in favour of his wife. The petitioner and the said Rajavelu being the husband and wife are in the thick of things and the petitioner has knowledge of the eviction proceedings. Therefore, I am unable to accept the contention that no notice has been served on the petitioner. If the petitioner has any grievance that the land belongs to her and not any wakf land, she has to establish the same only by way of filing an appeal under Section 9 of the TN Act 1 of 1976. Accordingly, preserving such liberty to file an appeal, this writ petition is disposed of.

6. It is now stated that the Wakf Board is taking immediate steps to dispossess the petitioner. Since the petitioner is given an opportunity to file an appeal, it is for the petitioner to seek such interim protection before the appellate authority and the appellate authority, in turn, shall consider the interim relief on its own merits. However, on the facts and circumstances of the case, no coercive steps shall be taken for a period of 7 days from the date of receipt of a copy of this order. The interim protection granted by this court



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hereinabove shall not in any manner influence the appellate authority and the appellate authority shall consider the question of granting interim relief on its own merits.

This writ petition is disposed of accordingly with the above observations.

No costs. Consequently, connected WMPs are closed.

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Index : yes.

Neutral Citation : yes.

Speaking Order

kmk / nsl

Note: Issue order copy on or before 27.10.2023.

To

- 1.The Estate Officer,
The Tamil Nadu Waqf Board,
No.1, Jaffer Syrang Street,
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D.BHARATHA CHAKRAVARTHY.J.,

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