



W.P.(MD)No.16839 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :05.01.2023

CORAM

THE HONOURABLE MR.JUSTICE K. KUMARESH BABU

W.P.(MD)No.16839 of 2014

Vinayagamoorthy

... Petitioner

Vs.

1.The Executive Officer,
Arulmigu Marathajaleswarar Temple,
Musiri,
Trichy District.

2.The Commissioner,
HR and CE Department,
Nungambakkam,
Chennai.

3.Veeramalai.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the 1st respondent herein to take appropriate action against the obstructions as per the direction made in S.A.No.531 & 532 of 2008 dated 18.02.2010.

For Petitioner

:Mr.R.Murali for

:Mr.K.Govindarajan

For Respondents

:Mr.R.Ragavendran

Government Advocate for R1 & R2

:No appearance for R3



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ORDER

This writ petition has been filed seeking for a mandamus to direct the 1st respondent herein to take appropriate action against the obstructions as per the direction made in S.A.Nos.531 & 532 of 2008 dated 18.02.2010.

2.The case of the petitioner is that he had originally filed a suit in O.S.No.370 of 1992, seeking for a declaration that the plaintiff is having the right over the suit schedule property and also for a direction to direct the 1st respondent to remove the obstructions made by the 2nd defendant, who is the 3rd respondent herein.

3.According to the petitioner, the suit was decreed for both the reliefs. Aggrieved against the same, the 3rd respondent had preferred a first appeal, which was dismissed. As against the dismissal of the first appeal, the 3rd respondent herein had preferred a second appeal in S.A.Nos.531 & 532 of 2008. This Court, by order dated 18.02.2010, had allowed the second appeal and had set aside the judgment and decree made in the original suit in O.S.No.370 of 1992. However, a direction has been issued in the interest



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of the 2nd defendant temple, who is the 1st respondent herein, to take appropriate action to remove the obstruction made in the disputed portion. According to him, the said direction is nothing but decreeing the suit with regard to second prayer as prayed for by the petitioner. Unfortunately, since the suit has been dismissed, the petitioner is not in a position to file an execution proceedings, as the same would be rejected on technicalities. Thereafter, inspite of repeated representations, the 1st respondent had not taken any action to comply with the direction given by this Court in S.A.Nos.531 & 532 of 2008. Therefore, he has been forced to approach this Court under Article 226 of Constitution of India, by filing this writ petition.

4.Considering the relief sought for in this writ petition and without advertng to the merits and averments made in the affidavit filed in support of this writ petition, the petitioner is directed to give a fresh representation to the 1st respondent within a period of two weeks from the date of receipt of a copy of this order and the 1st respondent is directed to take appropriate action based on the representation of the petitioner within a period of six weeks thereafter.



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5. With the above directions, this writ petition is disposed of accordingly. There shall be no order as to costs.

05.01.2023

Index : Yes / No
Speaking Order/Non Speaking Order
sbm

To

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K.KUMARESH BABU, J.

sbn

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