



WEB COPY

W.P.No.17951 of 2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 06.02.2024**

**CORAM**

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM**

**W.P.No.17951 of 2021**

**and**

**W.M.P.No.19169 of 2021**

C.Kamalavathi

... Petitioner

Vs.

1. The Joint Commissioner,  
Hindu Religious and Charitable Endowment Department,  
Perumal Kovil Street,  
Tiruppur.
2. The Assistant Commissioner,  
Hindu Religious and Charitable Endowment Department,  
Perumal Kovil Street, Tiruppur.
3. The Executive Officer,  
Viswaswarasamy, Vasalachi Amman,  
Subamaniyaasamy Tirukovil,  
Nallur, Tiruppur District.

... Respondents

**Prayer:** Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents not to interfere the petitioner's peaceful possession and enjoyment of property measuring an extent 2860 s.ft situated at Site No.38, Gowtham Nagar, Kangayam Road in S.F.No.194 at Nallur village, Thirupur.

For Petitioner

: Mr.K.Sudhakar

For R1 & R2

: Mr.K.Karthikeyan,

Government Advocate (HR & CE)



For R3

: Mr.K.Ashok Kumar

**ORDER**

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The Writ of Mandamus has been instituted forbearing the respondents not to interfere the petitioner's peaceful possession and enjoyment of property measuring an extent 2860 s.ft situated at Site No.38, Gowtham Nagar, Kangayam Road in S.F.No.194 at Nallur village, Thirupur.

2. The petitioner states that she is in possession of the subject property, as described in the writ proceedings. The petitioner constructed a house in the above said property. While so, a Quit Notice has been issued by the Executive Officer, Viswaswarasamy, Vasalachi Amman, Subamaniya Swamy Tirukovil, Nallur, Tiruppur District on 16.08.2021 stating that the subject property belongs to the 3<sup>rd</sup> respondent Temple and therefore, the petitioner has to vacate the premises and handover the same to the Temple authorities.

3. The learned counsel for the writ petitioner, Mr.K.Sudhakar would state that the said Quit Notice was addressed to one Mr.Chidambaram and therefore, the said notice is not binding on the writ petitioner. Mr.Chidambaram is not in possession of the subject property, as stated in the Quit Notice and therefore, the petitioner filed the present Writ Petition to forbear the



respondents from dispossessing the petitioner from the subject property.

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4. The learned Government Advocate, Mr.K.Karthikeyan, appearing on behalf of the Hindu Religious and Charitable Endowments Department, based on the proceedings of the Joint Commissioner, Hindu Religious and Charitable Endowment Department made a submission that subsequently, a fresh enquiry notice was issued to the writ petitioner, asking her to appear for an enquiry. Initially, the enquiry was conducted on 08.01.2022 and since the petitioner has not appeared, again a notice was sent through registered post with acknowledgement due and the petitioner has acknowledged the notice and the Department is possessing the acknowledgement card. Even during the subsequent enquiry held on 20.04.2022, the writ petitioner had not appeared. Therefore, the Joint Commissioner has passed final order under Section 78 of the Hindu Religious and Charitable Endowments Act, declaring the petitioner as encroacher of the Temple property and to evict her. On account of the pendency of the writ petition, the execution is delayed.

5. The learned counsel, Mr.K.Ashok Kumar appearing on behalf of the 3<sup>rd</sup> respondent Temple would also state that the subject property belongs to the Temple and based on the complaint, action was initiated to evict the



encroachers. Section 78 proceedings were initiated by the Joint Commissioner and after conducting an enquiry, final order has been passed. The petitioner has got right of appeal under the Act, which is to be exercised in the manner contemplated. However, the petitioner has not filed any such appeal, despite the fact that notice was served on the petitioner to participate in the process of enquiry. In any event, the present Writ Petition is not maintainable, since after issuance of Quit Notice dated 16.08.2021, further notices were sent to the writ petitioner to participate in the process of enquiry and the petitioner has failed to participate in the same. Subsequently, final order has been passed. The subject property belongs to the Temple. The relief sought for in the present Writ Petition is in the nature of injunction to restrain the respondents from taking possession of the property. Possession of the Temple property can be taken over by the competent authority by the authority of law, as conferred under the provisions of the Hindu Religious and Charitable Endowment Act.

6. In the present case, actions were initiated under the Hindu Religious and Charitable Endowment and therefore, the authorities are empowered to exercise the powers conferred under the Act to evict the encroachers and take possession of the property.



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7. With these observations, the Writ Petition stands dismissed.

Consequently, the connected Miscellaneous Petition is closed. No costs.

**06.02.2024**

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Index : Yes

Speaking order

To

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Tiruppur.
2. The Assistant Commissioner,  
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**S.M.SUBRAMANIAM, J.**

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