



W.P.(MD)No.14775 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 05.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.14775 of 2018
and
W.M.P.(MD)Nos.13325 of 2018
and W.M.P.(MD)No.21351 of 2023

S.Saravanan

... Petitioner

versus

1. The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
Madurai District.
2. The Assistant Commissioner,
O/o. The Assistant Commissioner,
Hindu Religious and Charitable
Endowment Department,
Madurai District.
3. The Thakkar,
Arulmigu Mandai Karupanaswamy
Thirukovil,
Uranganpatti,
Melur Taluk,
Madurai District.



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4. The Executive Officer,
Arulmigu Kalyana Sundareswarar Thirukovil,
Melur Town,
Madurai District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Miscellaneous Petition No.9 of 2018 dated 22.05.2018 on the file of the Joint Commissioner, Hindu Religious and Charitable Endowment Department, Madurai and quash the same as illegal.

For Petitioner : Mr.S.M.A.Jinnah

For R1 to R3 : Mr.P.Subba Raj,
Special Government Pleader

For R4 : Mr.S.Manohar

ORDER

The petitioner is in occupation of a land in Survey No.204/8A of Uranganpatti Village, Melur Taluk, Madurai District. While so, on the petition filed by the respondents 2 and 3, the first respondent/the Joint Commissioner of HR&CE Department, Madurai, passed an order on 22.05.2018 under Section 78 of the HR&CE Act, treating the petitioner



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as encroacher and directing him to vacate and handover the property to the Temple within a period of 30 days. Challenging the same, the present writ petition has been filed.

2. The learned counsel appearing for the petitioner submits that the land in S.No.204/8A belongs to one Karuppanna Chettiar. The petitioner's father was the permissive occupant of the said Karuppanna Chettiar. The petitioner's father has already filed a suit in O.S.No.190 of 2016 before the District Munsif Court, Melur, seeking injunction as against the Temple administration. The learned District Munsif, Melur, by order dated 10.07.2017, granted an order of interim injunction in favour of the petitioner's father. In the said suit, the temple administration was a party to the suit proceedings and they have not taken any steps to vacate the interim injunction granted by the District Munsif Court, Melur. However, they have initiated action under Section 78(4) of the HR&CE Act. Hence, the petitioner is before this Court.



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3. The learned counsel appearing for the petitioner further submits that since the land in S.No.204/8A belongs to the said Karuppanna Chettiar, the respondent Temple is not having any locus to question the occupation of the petitioner. The petitioner's father has already filed a suit and obtained an order of interim injunction on 10.07.2017. Though the temple administration was a party to the suit proceedings, they have not taken any steps to vacate the order of interim injunction, however, initiated proceedings under Section 78 of HR&CE Act as against the petitioner.

4. The learned counsel appearing for the respondents/Temple submits that the subject property belongs to the Temple. The petitioner, without having any authority, is occupying the subject land and therefore, as per Section 78 of HR&CE Act, the impugned order was passed by the first respondent. The learned counsel, by relying on the register of the Temple, submits that the property belongs to the Temple. He further submits that the petitioner's father, who filed the



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suit in O.S.No.190 of 2016, died and the petitioner has not taken any steps to implead himself as a party in the suit and therefore, the suit has to be declared as abated.

5. This Court considered the rival submissions made.

6. The petitioner is in occupation of the property in Survey No. 204/8A. The Temple Administration claims that it is a property of temple. The petitioner claims that it is a property of one Karuppanna Chettiar, for which, the revenue officials have also issued patta. The petitioner claims that his father was in permissible occupation of the property of Karuppanna Chettiar and after his demise, he is continuing the occupation of the property and he has also taken necessary steps to implead him as a party in the suit. The learned District Munsif, Melur, has also considered the case of the petitioner's father in O.S.No.190 of 2016 and granted an order of interim injunction as against the temple administration on 10.07.2017.



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7. Accordingly, this writ petition is allowed and the impugned order dated 22.05.2018 passed by the second respondent is hereby set aside. The Temple Administration shall work out their remedy in the suit in O.S.No.190 of 2016 pending on the file of the learned District Munsif, Melur, Madurai.

8. Considering that the suit is of the year 2016, this Court directs the learned District Munsif, Melur, Madurai, to dispose of the suit in O.S.No.190 of 2016, within a period of five months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

05.01.2024

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.



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B.PUGALENDHI, J.

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