

Tenmozhi Vs. The Joint Commissioner, Hindu Religious and Charitable Endowments Department, Madurai and Others

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Court : Chennai Madurai

Decided On : Jun-21-2016

Judge : M. Venugopal

Appeal No. : W.P(MD)No. 10842 of 2016 & W.M.P(MD)Nos. 8413 & 8414 of 2016

Appellant : Tenmozhi

Respondent : The Joint Commissioner, Hindu Religious and Charitable Endowments Department, Madurai and Others

Judgement :

(Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the first respondent in his proceedings in Na.Ka.No.6001/2014/E1, dated 25.01.2016 and consequential order issued by the second respondent in Na.Ka.No.2161/2014/A3, dated 6.6.2016 and to quash the same and consequently to forbear the respondents from evicting the Petitioner from the house bearing No.7-4/24 comprised in S.No.863, situated at Sixty Three Nayanmmar Madam South side, Uthamapalayam Post, Theni District.)

1. Heard both sides.

2. By consent of both sides, the main Writ Petition itself is taken up for final disposal. No counter is filed on behalf of the Respondents 1 to 3.
3. According to the Petitioner, her mother Kasturi Ammal served as a Sweeper in the Third Respondent/Temple. Her mother died few years back and now, the Petitioner is discharging the duties of a Sweeper in the Third Respondent/Temple. She is working on daily wages and receiving a monthly sum of Rs,2,500/-p.m.
4. The stand of the Petitioner is that she is residing in the house of 10x10 sq.ft belonging to the Third Respondent Temple for the last so many years and doing her Sweeper duties inside the Temple. After demise of her mother and her husband, she is carrying on the duties of a Sweeper of the Third Respondent Temple which is well within the knowledge of the Third Respondent Authority and also she continues to stay in the house in question with the due permission of the Third Respondent.
5. The categorical plea taken on behalf of the Petitioner is that, as a matter of fact, her mother had not paid any sum towards rent during her stay in the said house and in fact, she is an employee working in the Third Respondent Temple for last so many years. Furthermore, there is no written demand or oral demand for payment of any rent from her from the officials of the Third Respondent/Temple.
6. When that be the facts situation, the First Respondent had issued a proceedings dated 25.1.2016(issued under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959), whereby and where-under, it was mentioned that on the basis of the Inspection Report submitted by the Second Respondent, she is treated as an encroacher and a direction was issued to her to hand-over the vacant possession of the house in question to the Third Respondent/Temple within 30 days, failing which she was further informed that appropriate proceedings would be initiated under the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959.The said order was signed on 23.6.2016 by the Manager of the First Respondent Office.
7. Besides the above, the Second Respondent had issued a communication dated 6.6.2016 to the Petitioner stating that in terms of ingredients of Section 79 of the

Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, she would be evicted from the house in question with the help of Police on 23.6.2016 at 11.00 a.m.

8. Admittedly, as against the orders passed by the First Respondent, dated 25.1.2016 and as against the orders dated 6.6.2016 passed by the Second Respondent, the Petitioner has a viable, effective and an efficacious remedy of preferring an appeal before the competent authority as envisaged under the Tamil Nadu Hindu Religious Charitable and Endowments Act, 1959. As a matter of fact, the Petitioner has not approached the authorities concerned assailing the correctness of the order dated 25.1.2016 passed by the First Respondent and as against the order dated 6.6.2016 passed by the Second Respondent. Without taking further proceedings in the manner known to Law and in accordance with Law, the Petitioner has approached this Court by filing the present Writ Petition, which in the considered opinion of this Court is a premature one and otiose one. However, liberty is granted to the Petitioner to prefer an appeal or further proceedings by raising all factual and legal pleas, in the manner known to Law and in accordance with Law, if she so desires/advised. For assailing the correctness of the orders passed by the First Respondent dated 25.1.2016 and order passed by the Second Respondent, dated 6.6.2016. In this regard, the Petitioner is granted three weeks time. Till such time, the Petitioner shall not be dispossessed from the property in question. It is needless for this Court to make a significant mention that if the Petitioner files an appeal before the appropriate authority under the 'Act', then the authorities concerned shall dispose of the appeal after providing due opportunity to the Petitioner and others concerned, if any, in the manner known to Law and in accordance with Law.

9. With the aforesaid observations and directions, the Writ Petition stands disposed of. Consequently, connected Miscellaneous Petitions are closed. No costs.