

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10-07-2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT PETITION Nos.20719 and 20720 of 2015
and
M.P.Nos.1 and 1 of 2015

1.M.Rajendran

2.M.Meeran

3.T.M.Mohamed Sultan

4.Paul Abraham

5.Mohamed Ali

6.M.Saroja

7.M.K.Abdulla

8.M.Shabiya

9.R.Krishnan

10.T.A.Aman Ulla

11.Ramasamy

12.S.Murugan

...Petitioners in WP 20719/2015

1.C.P.Rajendren

2.Kasthuri

3.Hari Kumar

4.D.Karunakaren

5.Bakiyalakshmi

6.C.Shanmugam

7.K.Mohanraj

8.S.Kannan

9.Jayabalan

...Petitioners inWP 20720/2015

vs

1. The Commissioner
Hindu Religious & Charitable Endowment Board
Chennai
2. The Joint Commissioner
Hindu Religious & Charitable Endowment Board
Coimbatore
...Respondents 1 & 2 in both petitions
3. The Assistant Commissioner/
Executive Officer
Arulmigu Varasakthi Vinayakar Thirukoil
South Ukadam, Coimbatore.
4. Hereditary Trustee
Arulmigu Varasakthi Vinayakar Thirukoil
South Ukadam,
Coimbatore
...Respondents 3 & 4 in WP 20719/2015
5. The Assistant Commissioner/
Executive Officer
Arulmigu Varasidhi Vinayakar Thirukoil
South Ukadam, Coimbatore
6. Hereditary Trustee
Arulmigu Varasidhi Vinayakar Thirukoil
South Ukadam,
Coimbatore
...Respondents 3 & 4 in WP 20720/2015

W.P.No.20719 of 2015 filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents to stay the operation of the proceedings No.14 to 21 and 31, 32, 34 and 35 of 2013/A1 all dated 28.4.2015, pending disposal of the above appeal before the first respondent.

W.P.No.20720 of 2015 filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents to stay the operation of the proceedings No.22, 25 to 30 and 33 of 2013/A1 all dated 28.4.2015, pending disposal of the above appeal before the first respondent.

For Petitioners : Mr.D.R.Sivakumar

For Respondents : Mr.M.L.Mahendran
Government Advocate
for RR1 to 3

COMMON ORDER

By consent, both these writ petitions are taken up for final disposal.

2.The petitioners claim to be the tenants under the fourth respondent and according to them, they are all the lawful tenants under him and originally, their forefathers were in occupation of the respective premises and after their demise, they are carrying on the business in the respective places ever since the year 1960. The petitioners would further state that there were several proceedings pending between them and the fourth respondent before the Hindu Religious and Charitable Endowments Department (HR & CE) and since attempts have been made to evict them, proceedings were initiated under Section 78 of the HR & CE Act, treating them as encroachers and the second respondent vide order dated 28.4.2015, has called upon the respective petitioners to vacate and deliver possession of the land/premises in question, failing which, action was directed under Section 79(1) of the HR & CE Act, 1959. The petitioners aggrieved by the said order, preferred statutory appeals before the first respondent and also filed petitions for stay and those petitions are yet to be taken for hearing and taking advantage of the same, they are sought to be dispossessed and hence, came forward to file these writ petitions.

3.The learned Counsel appearing for the petitioners, has drawn the attention of this Court to the order dated 7.7.2015, made in W.P.No.19940 of 2015, and would submit that in similar facts and circumstances, this Court has directed the first respondent to dispose of the stay petitions within a stipulated time and in the interregnum, directed the second respondent to maintain status-quo and also indicated that the petitioners shall not create any third party rights in respect of the properties in question, and therefore, similar orders may be passed.

4.Per contra, Mr.M.L.Mahendran, learned Government Advocate, who accepted notice on behalf of the respondents 1 to 3 in both the writ petitions, would submit that all the petitioners are encroachers and the fourth respondent has not right whatsoever, to lease out the properties in question, and collect rents and after affording full and fair opportunities only, the second respondent has passed the order dated 28.4.2015, and would further submit that the present writ petitions lack merit and are liable to be dismissed in limini.

5.This Court has carefully considered the rival submissions and also perused the materials placed before it.

6.This Court, in similar facts and circumstances, has passed an order dated 7.7.2015, in W.P.No.19940/2015, and therefore,

is of the considered view that the petitioners herein are also entitled to similar relief.

7.This Court, taking into consideration the materials placed before it, and without going into the merits of the claim projected by the petitioners herein, directs the first respondent to dispose of the applications for stay filed by the petitioners in the statutory appeals, if the papers are otherwise in order and give a disposal within a period of four weeks from the date of receipt of a copy of this order and till then, the second respondent shall maintain status-quo as exists today. It is also made clear that in the interregnum, the petitioners herein shall not create any third party rights in respect of the properties in question. The writ petitions are disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

nsv

To

1. The Commissioner
Hindu Religious & Charitable Endowment Board
Chennai
2. The Joint Commissioner
Hindu Religious & Charitable Endowment Board
Coimbatore
3. The Assistant Commissioner/Executive Officer
Arulmigu Varasakthi Vinayakar Thirukoil
South Ukadam, Coimbatore
4. The Assistant Commissioner/Executive Officer
Arulmigu Varasidhi Vinayakar Thirukoil
South Ukadam, Coimbatore

1 CC to Mr.S.D.Ramalinga, Advocate SR.No. 34853

1 CC to Spl. Government Pleader (HR & CE), SR.No. 35166

1 cc to Special Government Pleader, sr.35167 (27/10/2015)

W.P.Nos.20719 and 20720 of 2015
and M.P.Nos.1 + 1 of 2015

CA (CO)

PSI (27.07.2015)