



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.11.2016

CORAM

WEB COPY

THE HONOURABLE **MR. JUSTICE V. BHARATHIDASAN**

W.P(MD) .No.15482 of 2016

and

W.M.P. (MD) .Nos.11384 and 11385 of 2016

V.Raghavan Nair

... Petitioner

Vs

1.The Joint Commissioner,
H.R & C.E Palayamkottai,
Tirunelveli,
Tirunelveli District.

2.Parvathipuram Udamoottu Dharmam of
Arulmighu Subramoniaswamy Temple,
Tiruchendur,
rep. By its Joint Commissioner/Thakkar,
having office at Subramoniaswamy Temple Premises,
Tiruchendur.

3.The Assistant Commissioner,
H .R & C.E Vadiveswaram,
Nagercoil,
Kanyakumari District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorari to call for the records relating to the impugned proceedings in M.P.21/2016/A2 dated 16.07.2016 U/s.78 of HR & CE Act before the 1st respondent and quash the same.

For petitioner : Mr.S.Parthasarathy,
Senior Counsel for
Mr.D.Saravanan

For Respondents : Mr.V.Muruganandham
1 to 3 Addl. Govt. Pleader

R2 : Mr.Muthu Geethayam

ORDER

This writ petition has been filed, challenging the notice issued under Section 78 of Hindu Religious and Charitable

<https://hcservices.pca.go.in/hcservices/>

2. Heard Mr.S.Parthasarathy, learned Senior Counsel



appearing for the petitioner.

3. According to the petitioner, he is in possession and enjoyment of the property to an extent of 3 cents in old Sy.No.3147, Re.Sy.No.G1/76, at Vadasery Village, Agasteeswaram Taluk, Kanyakumari District. In the said property, he has also put up a house as well as a shop and he is also residing there. Now, the respondent, without considering the fact that he is in possession for a long time, treated him as an 'encroacher' and issued a notice under Section 78 of the HR & CE Act.

4.The learned counsel for the respondents submitted that the land belongs to the temple and the petitioner is an encroacher. Hence, a proceedings has been initiated under Section 78 of the HR & CE Act and a notice of enquiry has been issued and the petitioner also appeared for the enquiry.

5.Considering the facts and circumstances of the case, this Court is of the view that the impugned proceedings is only a notice for enquiry. Hence, it is open to the petitioner to appear before the authority and raise his objection and on filing such objections, the first respondent/Joint Commissioner is directed to consider his objection and pass appropriate orders on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

6.Accordingly, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

1.The Joint Commissioner,
H.R & C.E Palayamkottai,
Tirunelveli, Tirunelveli District.

2.The Assistant Commissioner,
H .R & C.E Vadiveswaram,
Nagercoil, Kanyakumari District.

+1 cc to MR.M.MUTHU GEETHAYAN, Advocate SR.NO.67869
+1 cc to MR.D.SARAVANAN, Advocate SR.No.68462
+1 cc to Special Government Pleader SR.NO.68304

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