



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.11.2016

CORAM :

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition (MD) Nos.22080, 22081, 22082, 22190, 22191 and
21959, of 2016

and

W.M.P (MD) Nos.15796, 15797, 15798, 15799, 15794, 15795, 15902,
15903, 15900, 15901, 15690 and 15691 of 2016

DHANDEESWARAN ... PETITIONER in WP(MD) No.22080 of 2016

PALANIAMMAL ... PETITIONER in WP(MD) No.22081 of 2016

1 G.RAJENDRA RAJA

2 BALA ... PETITIONERS in WP(MD) No.22082 of 2016

1 DHANAMMAL

2 NEHRU

3 MURUGANANDTHAM BHARATHI

4 MUTHURAMALINGAM

5 BOSE

6 SIVA SHENBAGAM ... PETITIONERS in WP(MD) No.22190 of 2016

1 P.VELUCHAMY

2 VIJAYA

3 SARAVANAN ... PETITIONERS in WP(MD) No.22191 of 2016

RAKAPPAN ... PETITIONER in WP(MD) No.22959 of 2016

-VS-

1 THE JOINT COMMISSIONER,
HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS DEPARTMENT,
MADURAI.

2 THE ASSISTANT COMMISSIONER,
HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS DEPARTMENT,
MADURAI.

3 THE DEPUTY COMMISSIONER /EXECUTIVE OFFICER,
ARULMIGHU SUBRAMANYASAMY THIRUKKOVIL,
THIRUPPARAKUNDRAM,

<https://hcservices.ecourts.gov.in/hcservices> MADURAI DISTRICT

... RESPONDENTS IN ALL WRIT PETITIONS



Prayer in WP(MD) No.22080 of 2016: Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the records pertaining to the impugned proceedings issued by the first respondent in his proceedings in Na.Ka 6220/2016/E1 dated 23.09.2016 and also the third respondent in Na.Ka.No.600/2016/E5 dated 28.9.2016 and quash the same as illegal.

Prayer in WP(MD) No.22081 of 2016: Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the records pertaining to the impugned proceedings issued by the first respondent in Na.Ka.No. 6219/2016/E1 dated 23.9.2016 and also the consequential proceedings issued by 3rd respondent in Na.Ka.No. 606/2016/E5 dated 28.09.2016 and quash the same as illegal.

Prayer in WP(MD) No.22082 of 2016: Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the records pertaining to the impugned proceedings issued by the first respondent in Na.Ka.No. 6221/2016/E1 dated 22.9.2016 and also the consequential proceedings issued by the third respondent in Na.Ka.No. 603/2016/E1 dated 28.9.2016 and quash the same as illegal.

Prayer in WP(MD) No.22190 of 2016: Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the records pertaining to the impugned proceedings issued by the first respondent in Na.Ka.NO. 6222/2016/E5 dated 30.9.2016 and also the consequential proceedings issued by third respondent in Na.Ka.No. 607/2016/E5 dated 08.10.2016 and quash the same as illegal.

Prayer in WP(MD) No.22191 of 2016: Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the records pertaining to the impugned proceedings issued by the 1st respondent in Na.Ka.No. 6218/2016/ E1 dated 22.09.2016 and also the consequential proceedings issued by 3rd respondent in Na.Ka.NO. 601/2016/E5 dated 28.09.2016 and quash the same as illegal.

Prayer in WP(MD). 21959/ 2016 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records pertaining to the impugned proceedings issued by the 1st respondent in Na.Ka.No. 6226/2016/E1 dated 29.9.2016 and also the consequential proceedings issued by 3rd respondent in Na.Ka.No. 602/2016/E5 dated 08.10.2016 and quash the same as illegal.



For Petitioner : Mr.J.Lawrance in all writ petitions

For Respondents 1&2 : Mr.V.Muruganandam,
Additional Government Pleader.
in all writ petitions

For 3rd Respondent : Mr.S.Manohar, in all writ petitions

ORDER

Since the issue involved in these writ petitions is common, taken up together and they are disposed of by this common order.

2.Challenging the order passed by the first respondent under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, the present writ petitions have been filed.

3.Heard Mr.J.Lawrance, learned counsel appearing for the petitioners, Mr.V.Muruganandam, learned Additional Government Pleader appearing for the respondents 1 and 2 and Mr.S.Manohar, learned counsel appearing for the third respondent.

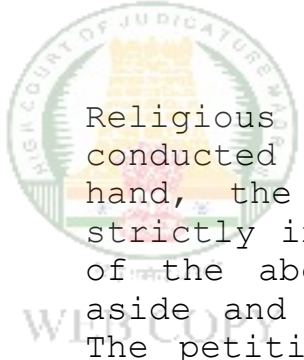
4.According to the petitioners, they are the owners of their houses in dispute and they are paying kist and other taxes. It is stated that the first respondent, earlier tried to evict the petitioners from the properties in question and therefore, the petitioners filed civil suits before the District Munsif Court, Thirumangalam which are still pending. While so, the first respondent has passed the impugned orders for eviction under Section 78 of the above said Act without conducting any enquiry and without considering the explanation offered by the petitioners. Hence, the present writ petitions have been filed.

5.When the matter came up for hearing on 18.11.2016, this Court directed the petitioners to pay the entire arrears of rent due to the temple and pursuant to the same, the entire arrears of rent as on 30.06.2016 has been paid without prejudice to the rights and contentions of the parties in the suit.

6.Learned counsel appearing for the third respondent submitted that the property belongs to the temple and the petitioners have occupied in the said properties without paying rent and they are only encroachers and therefore, show cause notice has been issued to them after following due process of law, but the petitioners have not submitted any explanation for the said show cause notice, hence, the present impugned notice has been issued.

<https://hcservices.ecourts.gov.in/hcservices/>

7.Admittedly, as per Section 78 of the Act and Rule 5 of Removal of Encroachments (on lands or Buildings Belonging to



Religious Institution) Rules, a detailed enquiry should be conducted before passing an order of eviction. In the case on hand, the first respondent has passed the impugned order not strictly in accordance with Section 78 of the said Act and Rule 5 of the above said Rules. Therefore, the impugned order is set aside and the matter is remanded back to the first respondent. The petitioners are directed to submit their objections, if any within a period of two weeks from the date of receipt of a copy of this order. On receipt of such objection, the first respondent is directed to conduct enquiry as per Section 78 of the Act and Rule 5 of the said Rules and pass appropriate orders, on merits and in accordance with law, within a period of six weeks thereafter.

8.The writ petitions are accordingly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(Crl.side)

/True copy/

Sub Assistant Registrar

To

- 1.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Madurai.
- 2.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department, Madurai.
- 3.The Deputy Commissioner /Executive Officer,
Arulmighu Subramanyasamy Thirukkivil,
Thirupparakundram, Madurai District.

+5 cc's to The Special Government Pleader
in SR.Nos.72447,72453,72457 to 72459
+6 cc's to M/s.J.Lawrance, Advocate in SR.Nos.72310,72487
+4 cc's to M/s.S.Manokar, Advocate
in SR.Nos.72032,72033,72028 and 72029

Writ Petition (MD) Nos.22080, 22081
, 22082, 22190, 22191 and 21959, of 2016
23.11.2016

sms

CSL/PM/28.12.2016: 4P/19C