

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2017

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THE HONOURABLE MR.JUSTICE M. DURAISWAMY

W.P. Nos. 10691 & 16328 of 2017

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W.M.P. Nos. 11639 & 17656 of 2017

W.P. No. 10691 of 2017

Mr.L. Wilson Susairaj

..Petitioner

Vs.

1. Joint Commissioner,  
The Hindu Religious & Charitable  
Endowment Department,  
Villupuram District.
2. Arulmigu Arunachaleswarar Thirukkoil  
rep. by its Asst. Commissioner/  
Executive Officer,  
Thiruvannamalai – 606 601.

3. Mrs.D. Brinda

..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus to call for the records culminated in the impugned notice dated 22.03.2017 in Na.Ka.No. 2891/2016/E2 issued by the 1<sup>st</sup> respondent and quash the same and consequently direct the 1<sup>st</sup> respondent to regularise the tenancy by executing fresh Lease Deed in favour of the petitioner.

|                 |    |                                                                                       |
|-----------------|----|---------------------------------------------------------------------------------------|
| For Petitioner  | :: | Mr.N.L. Raja,<br>Senior Counsel for<br>M/s. BFS Legal                                 |
| For Respondents | :: | Mr.M. Maharaja,<br>Special Govt. Pleader<br>(HR & CE) for R1<br>Mr.A.K. Sriram for R2 |

**W.P. No. 16328 of 2017**

Mr.L. Wilson Susairaj

..Petitioner

Vs.

1. Joint Commissioner,  
The Hindu Religious & Charitable  
Endowment Department,  
Villupuram District.
2. Arulmigu Arunachaleswarar Thirukkoil  
rep. by its Asst. Commissioner/  
Executive Officer,  
Thiruvannamalai – 606 601.

..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus directing the respondents to consider the representations dated 06.06.2001, 10.12.2003, 23.04.2012, 26.04.2012, 09.08.2013, 28.08.2013 and 13.06.2017 and consequently confirm the tenancy in favour of the petitioner by executing a fresh lease deed in favour of the petitioner.

|                 |    |                                                                                       |
|-----------------|----|---------------------------------------------------------------------------------------|
| For Petitioner  | :: | Mr.N.L. Raja,<br>Senior Counsel for<br>M/s. BFS Legal                                 |
| For Respondents | :: | Mr.M. Maharaja,<br>Special Govt. Pleader<br>(HR & CE) for R1<br>Mr.A.K. Sriram for R2 |

**COMMON ORDER**

The petitioner has filed the writ petition in W.P.No.10691 of 2017 to issue a writ of certiorarified mandamus to call for the records culminated in the impugned notice dated 22.03.2017 issued by the 1st respondent and to quash the same and consequently direct the 1st respondent to regularise the tenancy by executing a fresh lease deed in his favour.

2. Writ petition in W.P.No.16328 of 2017 has been filed by the petitioner to issue a writ of mandamus directing the respondents to consider the representations dated 06.06.2001, 10.12.2003, 23.04.2012, 26.04.2012, 09.08.2013, 28.08.2013 and 13.06.2017 and consequently confirming tenancy in his favour by executing a fresh lease deed .

3. According to the petitioner, he is a lawful bonafide purchaser of the superstructure (building) on the land bearing Door No.1B, Arunachapuram II Street, Adyar. From the date of purchase and occupation, the 2nd respondent had been collecting the rent from him and issued receipts to him. However, the receipts were issued in the name of Brinda, from whom the petitioner had purchased the superstructure. On enquiry, the representatives of the 2nd respondent, intimated him that once approval of transfer is completed, then the receipts would be issued in his name. In the meantime, the petitioner was served with a notice in the Execution proceedings by the 2nd respondent. The 2nd respondent has also filed a Civil Suit against Brinda and one Vincent for

recovery of possession. An ex-parte decree was passed on 19.07.2002 in O.S.No.3346 of 2007, pursuant to which, an Execution Petition in E.P.No.2292 of 2005 was filed. The 1st respondent initiated proceedings against the petitioner under Section 78 (2) of the Tamil Nadu Hindu Religious and Charitable Endowments Act and the same has been challenged in the writ petition in W.P.No.10691 of 2017.

4. Mr.A.L.Raja, learned Senior Counsel appearing for the petitioner submitted that even without considering the petitioner's representations given on various dates, the 1st respondent had issued the notice under Section 78(2) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, calling upon the petitioner to appear for the enquiry. Further, the learned Senior Counsel submitted that the petitioner has no objection for appearing before the 1st respondent in the Section 78 proceedings, however, the respondents may be directed to consider the petitioner's representations before passing any order in the Section 78 proceedings pending before the 1st respondent.

5. Mr.M.Maharaja, learned Special Government Pleader, taking notice for the 1st respondent Joint Commissioner and Mr.Sriram, learned counsel taking notice for the 2nd respondent Temple submitted that the 1st respondent may be directed to consider the petitioner's representations in accordance with law, within a time frame and the 1st respondent may also be directed to proceed with Section 78 proceedings and pass orders in accordance with law.

6. In view of the submissions made by the learned counsel on either side, since only the Commissioner of Hindu Religious and Charitable Endowments Department is the competent authority to take a decision on the representations given by the petitioner, I direct the 1st respondent to consider the petitioner's representations dated 06.06.2001, 10.12.2003, 23.04.2012, 26.04.2012, 09.08.2013, 28.08.2013 and 13.06.2017 and send a report to the Commissioner of Hindu Religious and Charitable Endowments Department, who in turn shall decide the matter in accordance with law, within a period of three months from the date of receipt of the report from the 1st respondent.

7. So far as the writ petition in W.P.No.10681 of 2017 is concerned, the 1st respondent shall proceed with the enquiry, however, shall not pass orders till the orders are passed by the Commissioner of Hindu Religious and Charitable Endowments Department on the representations given by the petitioner. It is needless to say that since Section 78 proceedings are pending before the 1st respondent, the parties are directed to maintain status-quo till final orders are passed in the proceedings.

With these observations, the writ petitions are disposed of. No costs. Connected miscellaneous petitions are closed.

29.06.2017

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Index: Yes/No

Internet: Yes/No

Speaking Order/Non –Speaking Order

M. DURAISWAMY,J.

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To

1. Joint Commissioner,  
The Hindu Religious & Charitable  
Endowment Department,  
Villupuram District.
2. Arulmigu Arunachaleswarar Thirukkoil  
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