

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2017

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THE HON'BLE MR. JUSTICE M.DURAISWAMY

W.P.No.16418 of 2017
and W.M.P.Nos.17758 and 17759 of 2017

T.K.Thambusamy

... Petitioner

Vs

- 1 The Commissioner,
Hindu Religious & Charitable Endowment,
Administration Department,
Uthamar Gandhi Road,
Nungambakkam, Chennai - 600 034.
 - 2 The District Collector,
Nagapattinam, nagapattinam District.
 - 3 The Tahsildar,
Vedaranyam, Vedaranyam Taluk
Nagapattinam District.
 - 4 The Joint Commissioner,
Hindu Religious & Charitable Endowment,
Administration Department, Thanjavur.
 - 5 The Assistant Commissioner,
Hindu Religious & Charitable Endowment,
Administration Department, Nagapattinam
Nagapattinam District.
 - 6 The Executive Officer,
Arulmigu Vedaranyeswara Swamy Temple,
Vedaranyam Town & Taluk,
Nagapattinam District.
- ... Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus to call for the records relating to the impugned notice dated 04.05.2017 under section 78 of Hindu Religious and Charitable Endowment Act by the 6th respondent and previous order of the 4th respondent in Kattu No. 12291 /2011 /E2 dated 28.01.2014 and quash the same and consequently direct the 3rd

respondent to issue patta to the petitioner in respect of the property in Survey No. 175 /451 Therkku Mada Vilagam Indhira Nagar Vedaranyam Town and Taluk Nagapattinam District.

For Petitioner : Mr.V.Kasinathabharathi

For Respondents : Mr.M.Maharaja, SGP (R1, 4 to 6)
Mr.S.N.Parthasarathi, GA (R2 & 3)

O R D E R

Mr.M.Maharaja, learned Special Government Pleader, takes notice for the respondents 1, 4 to 6 and Mr.S.N.Parthasarathi, learned Government Advocate, takes notice for the respondents 2 and 3.

2. The petitioner has filed the above Writ Petition to issue a writ of certiorarified mandamus to call for the records relating to the impugned notice dated 04.05.2017 under Section 78 of Hindu Religious and Charitable Endowment Act (hereinafter referred to as "the Act") by the 6th respondent and previous order of the 4th respondent dated 28.01.2014 and to quash the same and consequently direct the 3rd respondent to issue patta to him in respect of the property in Survey No. 175 /451 Therkku Mada Vilagam, Indhira Nagar, Vedaranyam Town and Taluk, Nagapattinam District.

3. The learned Special Government Pleader, appearing for the respondents 1, 4 to 6 submitted that the writ petition is not maintainable for the reason that the petitioner has got an appeal remedy before the 1st respondent.

4. As against the impugned order dated 04.05.2017 passed under Section 78 of the Act, the petitioner has got an appeal remedy before the 1st respondent and without exhausting the same, the petitioner has filed the present writ petition under Article 226 of the Constitution of India, which is not maintainable.

5. At this juncture, learned counsel for the petitioner sought liberty to file an appeal before the Commissioner, as against the impugned order passed by the 6th respondent

6. In view of the submissions made by the learned counsel on either and in view of the fact that the petitioner has got an appeal remedy, the writ petition is rejected as not maintainable. It is open to the petitioner to challenge the impugned order before the 1st respondent by way of an appeal, in accordance with law. The petitioner shall file the appeal

within one week from today. Till such time, the respondents are directed to maintain status-quo.

No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

- 1 The Commissioner
Hindu Religious & Charitable Endowment
Administration Department
Uthamar Gandhi Road
Nungambakkam Chennai - 600 034.
- 2 The District Collector
Nagapattinam nagapattinam District.
- 3 The Tahsildar
Vedaranyam Vedaranyam Taluk
Nagapattinam District.
- 4 The Joint Commissioner
Hindu Religious & Charitable Endowment
Administration Department, Thanjavur.
- 5 The Assistant Commissioner
Hindu Religious & Charitable Endowment
Administration Department Nagapattinam
Nagapattinam District.
- 6 The Executive Officer
Arulmigu Vedaranyeswara Swamy Temple
Vedaranyam Town & Taluk,
Nagapattinam District.

+1cc to Mr.V.Kasinathabharathi, Advocate, S.R.No.45398

W.P.No.16418 of 2017

AD(CO)
CS/30/06/17