



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 13.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD) No.17104 of 2017
and

W.M.P. (MD) .Nos.13684 and 13685 of 2017

R.Boopathy

.. Petitioner

Vs.

- 1.The Commissioner,
Hindu Religious and Charitable
Endowments Board,
119, Utthamar Gandhi Saalai,
Nungampakkam,
Chennai-14.
 - 2.The Assistant Commissioner/Executive Officer,
Hindu Religious and Charitable Endowments Board,
Arulmigu subramaniaswami Thirukovil,
Thiruparankundram,
Madurai District.
 - 3.The Joint Commissioner,
Hindu Religious and Charitable Endowments Board,
Madurai.
 - 4.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Board,
Madurai.
 - 5.The District Collector,
Madurai District,
Madurai.
 - 6.The Revenue Divisional Officer,
Madurai Region,
Madurai.
 - 7.The Tahsildar,
Thiruparankundram Taluk,
Madurai.
- .. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution
<https://hcservices.ecourts.gov.in/hcservices/>
of 13.09.2017 to issue a Writ of Certiorari Mandamus, calling for
the records pertaining to the proceedings of the 4th respondent in

Na.Ka.No.1275/2016-1/A 1 dated 24.08.2017 and quash the same and further direct the 3rd respondent to serve the order passed under Section 79 of the Hindu Religious and Charitable Endowment Board Act to the petitioner with respect to the property occupied by the petitioner in S.No.196/14A, of Thiruparankundram Village, Madurai belonging to the 2nd respondent, thereby providing an opportunity to prefer an appeal against the same.

For petitioner : Mr.M.Gururaj
 For R1 to R4 : Mr.N.Muthugeethaiyen
 For R5 to R7 : Mr.M.Govindan
 Spl.Govt.Pleader

O R D E R

[Order of the Court was made by **K.K.SASIDHARAN, J.**]

The challenge in this writ petition is to the consequential order passed by the 4th respondent dated 24.08.2017, pursuant to the order passed by the Joint Commissioner under Section 79(4) of the Hindu Religious and Charitable Endowments Act, 1959.

2.The Predecessor-in-interest of the petitioner was given lease of the Temple property by the second respondent. The lease was given for residential purpose. We are informed that after the death of the original lessee, the petitioner and his brother have taken possession of the property.

3.Since the monthly rent was not paid by the petitioner and his brother, action was taken by the Joint Commissioner invoking Section 79(4) of the Act. The eviction order was passed on 29.09.2016. Thereafter, execution proceedings were taken by the fourth respondent. It is the said order, which is challenged in this writ petition.

4.When the writ petition came up for admission, taking into account the submission made on behalf of the respondent, we have passed the following order:

Heard the learned Counsel for the petitioner.

2. The learned Counsel for the Hindu Religious and Charitable Endowments Board, on instructions, submitted that the petitioner is in arrears to the tune of Rs.64,200/- (Rupees Sixty Four Thousand and Two Hundred only) and even though sufficient opportunity was given to him, effort was not taken to discharge the arrears.

3. The learned Counsel for the petitioner submitted that the petitioner is prepared to pay the entire arrears within two days and he is also prepared to give an undertaking affidavit to the effect that he will discharge the amount every month.



4. The petitioner is directed to pay the entire amount of Rs.64,200/- (Rupees Sixty Four Thousand and Two Hundred only) to the second respondent by 12-September-2017.

5. List the Writ Petition on 13-September-2017 for producing the receipt and for filing undertaking affidavit by the petitioner.

6. The Status quo as on today shall be preserved in the meantime.

5. When the writ petition is taken up for further hearing today, the learned counsel appearing for the Hindu Religious and Charitable Endowments Department fairly submitted that the petitioner has paid a sum of Rs.64,200/-, pursuant to the direction given by this Court. The petitioner has filed an affidavit indicating that he would pay the monthly rent without default. The affidavit is taken on record.

6. Since the petitioner has paid the entire amount, which is the subject matter of execution in the impugned order dated 24.08.2017, there is no need for a further adjudication of the matter. It is open to the petitioner and his brother to submit an application before the second respondent for change of tenancy, taking into account the death of the original tenant. In any case, any such application is made, the same shall be considered and disposed of by the second respondent on merits and in accordance with law.

7. We have shown sufficient indulgence taking into account the fact that the residential property is involved in the matter. We make it clear that the petitioner shall pay the rent every month, without dragging the Department to initiate proceedings. We also make it clear that if the monthly rent is not paid consecutively for a period of three months, the order of eviction already passed by the Joint Commissioner would be restored.

8. The writ petition is disposed of with the above direction. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

/True copy/

Sub Assistant Registrar

To:

1. The Commissioner,
Hindu Religious and Charitable
Endowments Board,
Gandhi Saalai,
Nungampakkam,
Chennai-14.



2.The Assistant Commissioner/Executive Officer,
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7.The Tahsildar,
Thiruparankundram Taluk,
Madurai.

+1cc to Mr.M.MUTHUGEETHAYAN,Advocate,SR.78558
+1cc to M/S.Special Government Pleader,SR. 79031

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and

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