



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.12.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD) No.1734 of 2017 and
W.M.P. (MD) No.1412 of 2017

Vairavan

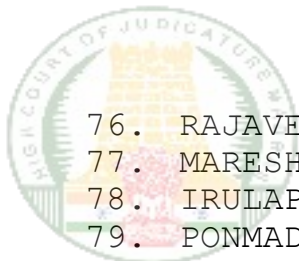
... Petitioner

-vs-

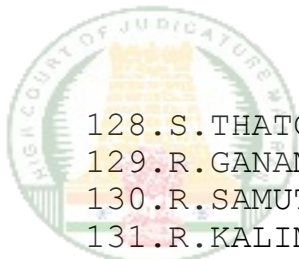
1. The Secretary,
Tourism, Culture & Religious Endowment Department,
Government of Tamil Nadu,
Fort St.George, Chennai-600 009.
2. The Commissioner,
Hindu Religious & Charitable Endowment Department,
Uthamar Gandhi Salai,
Nungambakkam, Chennai-600 034.
3. The Joint Commissioner,
HR&CE Admn. Department,
Sivagangai Division,
Sivagangai District.
4. The Assistant Commissioner /
The Executive Officer,
A/m.Mariamman Temple,
Irukkankudi, Sattur Taluk,
Virudhunagar District.
5. R.BASKARAN
6. S.GOBAL
7. R.RAJENDRAN
8. B.SHANMUGAIAH
9. PERUMALSAMY
10. K.DURAIAPPAN
11. M.SUBULAKSHMI
12. S.JEYANTHI
13. ALAGURANI
14. P.CHELLAIAH
15. S.SELVAM
16. J.PALRAJ
17. P.KRISHNARAJA
18. S.POTHUMPONNU
19. J.THANGAMATHI
20. AMUTHA
21. MUTHUMADATHI
22. VELMORGAN
23. INDIRA



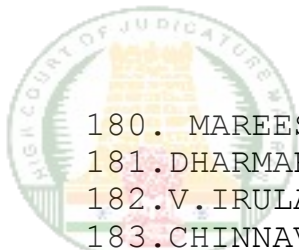
24. RAGAVENDRAN
25. PARAMESWARAN
26. SUBBUMADATHI
27. MARIMUTHU
28. JAGATHESWARAN
29. RAJAGOBAL
30. MADURAI VEERAN
31. ARULRAJ
32. MARIMUTHU
33. BALAMURUGAN
34. SUNDARAVALLI
35. SUBRAMANIYAM
36. AAVUDAITHANGAM
37. VELCHAMY
38. MAREESWARAN
39. MARIMUTHU
40. AKANTHAMOORTHY
41. JOTHI
42. MUTHUKRISHNAN
43. SUNDAR JEGAN
44. POTHIRAJ
45. MAREESHWARI
46. GOVINDHARAMAN
47. TAMILARASI
48. UMAMAHESHWARI
49. GOVINDHARAJ
50. RAMAIAH
51. KARTHIGAISELVAN
52. KALIAMMAL
53. THAMARAIVALLI
54. KARPAGAM
55. ARUMUGAVEL
56. SAMUTHIRAKANI
57. IRULAPPASAMY
58. MUTHUMARIAPPAN
59. MARIAPPAN
60. PALRAJ @ MARIMUTHU
61. BALAMURUGAN
62. SHANMUGAIAH
63. RAJARATHINAM
64. ALAGAMMAL
65. SUBBULAKSHMI
66. MUTHUSAMY
67. NARAYANAN
68. KUTTIRAJA
69. NATTATHI
70. MUTHUMARI
71. SUBBURAJ
72. SABEETHA LAKSHMI
73. MUTHUMARI
74. SELVARAMAN
75. AATHIPARASAKTHI



76. RAJAVEL
77. MARESHWARAN
78. IRULAPPARAJA
79. PONMADATHI
80. THEIVANAI
81. NARAYANA SAMY
82. MARISELVAM
83. MARIMUTHU
84. PONVIJAYAKANTH
85. KALIDHASS
86. AATHIPARASAKTHI
87. SARASWATHI
88. VEERASELVI
89. NAVANEETHAN
90. KARPAGASELVAM
91. PUSHPAM
92. GURUVAMMAL
93. RAMAKRISHNAN
94. SHANMUGA VADIVU
95. KAMALA DEVI
96. KOVINDARAMAN
97. DEIVAKANI
98. SARATHA
99. J.INDRADEVI
- 100.K.MADASAMY
- 101.R.RAJENTHIRAN
- 102.R.YESURAJ
- 103.S.MUNİYANDI
- 104.R.ALAGARSAMY
- 105.S.VIJAYARAMAPANDI
- 106.K.MARIYAPPAN
- 107.M.DEIVAKANI
- 108.B.ANTHONIYAMMAL
- 109.K.KANNAN
- 110.V.SATHYAMOORTHY
- 111.V.PAUL MAGENDIRAN
- 112.S.MAREESWARI
- 113.V.SAMYRAJ
- 114.S.FATHIMA
- 115.S.MUTHUSAMI
- 116.N.RAMAR
- 117.JOTHI
- 118.T.SUBBULAKSHM
- 119.V.RAMARAJ
- 120.M.SHANMUGAIAH
- 121.K.RAVI
- 122.R.KUMAR
- 123.L.PUSHPARAJ
- 124.S.JEYACHANDRAN
- 125.SELVARAJ
- 126.KAMALAH
- 127.K.SELVARANI



128.S.THATCHINAMOORTHY
129.R.GANAMANI
130.R.SAMUTHIRAVEL
131.R.KALIMUTHU
132.GOPAL
133.V.POOCHAI AH
134.MARIMUTHU
135.ANNABAKKIYAM
136.RATHINAKUMARI
137.VALLIYAMMAL
138.GANESAN
139.PANDIARAJ
140.RAMALAKSHMI
141.KRISHNAMMAL
142.MUTHUSAMY
143.CHINNAMUTHUSAMY
144.PONRAJ
145.KRISHNAN
146.IRULAPPASAMY
147.BALAKRISHNAN
148.MURUGAN
149.PANDIARAJ
150.SEETHANGANI
151.MUTHUVAIRAVAN
152.MUTHURAKKU
153.SUBRAMANIYAN
154.Boomiraj
155.SUBRAMANIYAN
156.RAMAMOORTHY
157.MARIYAPPAN
158.T.SAKTHI
159.S.MUTHURAJ
160.E.ERULAPPASAMY
161.S.KARUPPASAMY
162.B.VALARMATHI
163.M.PANDI
164.MASILAMANI
165.P.MURUGESHWARI
166.L.MADASAMY
167.S.MUNIYASAMY
168.K.MUTHUSAMY
169.BALAMANI
170.M.KALIDOSS
171.V.CHINNA RAJA
172.P.MARISELVAM
173.K.MUTHU LAKSHMI
174.POOMARI
175.S.MUTHU MANICKAM
176.R.RAJASEKAR
177.V.KARTHIKEYAN
178.SHANMUGA LAKSHMI
179.G.SUDALAI RAJA



180. MAREESWARI
181. DHARMARAJ
182. V. IRULAPPASAMY
183. CHINNAVEL RAJA
184. KASIRAJAN
185. POONGOTHAI
186. NATARAJAN
187. PANDI MUTHU VEL

... Respondents

(R5 to R187 impleaded by orders dated 06.12.2017 & 21.12.2017)

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 4th respondent in his proceedings in Na.Ka.No. 656/2001A4 dated 22.01.2017 and quash the same.

For Petitioner	: Mr.P.Banuprasath
For R1 to R3	: Mr.J.Gunaseelan Muthiah Govt. Advocate
For R4	: Mr.P.Mahendran
For R5 to R159	: Mr.K.Murugavel Rajan
For R160 to R187	: Mr.K.K.Kannan

O R D E R

This writ petition has been filed, seeking to quash the impugned order passed by the 4th respondent in his proceedings in Na.Ka.No.656/2001A4 dated 22.01.2017, by which, the petitioner was directed to vacate the encroached shops within seven days, failing which suitable action would be taken against him for removal of shops with the assistance of the Police.

2. The case of the petitioner is as follows:

i) He was permitted to occupy the land to the extent of 200 sq.ft. In S.No.933 belonging to Arulmigu Mariamman Temple, in which he put up a superstructure for the purpose of running a Vessel Shop and the said shop was duly let out to him by the Trustees of the Temple for a monthly rent of Rs.200/- on due receipt of Rs.10,000/- as Security Deposit. After the Temple was taken over by the HR&CE Department, he started paying the rent to the third respondent;

ii) When the matter stood thus, the third respondent initiated proceedings against the petitioner on the basis of the recommendation of the fourth respondent without issuing any show cause and he entered appearance through an Advocate and filed an objection. Since the petitioner has refused to pay the rent to the Trustees and started paying the same directly to the 4th respondent, at the instigation of the Trustees, such proceedings were initiated, whereas similarly placed persons like that of the petitioner were allowed to run the shops without any hindrance. After several round of litigations, finally this Court by order dated 08.12.2016 directed the petitioner to approach the respondents 3 and 4 by way of representation and the same was directed to be considered by the respondents 3 and 4 for extension of lease upon acceptance of payment of prevailing monthly rent by the petitioner. Though the



petitioner was ready to pay the rent to be fixed by the respondents, all of a sudden, the present impugned order for vacating the shop came to be passed. Aggrieved by the same, the petitioner is before this Court.

3. When the matter was taken up for hearing on 30.11.2017, by consent on either side, two Advocate Commissioners were appointed to ascertain the exact position and file a detailed report along with sketch and photographs etc. before this Court. Accordingly, they filed a report dated 15.12.2017 by extending few suggestions for consideration of this Court and in the report, it is *inter alia* stated as follows:

"8...We have discussed elaborately and came to conclusion and unanimously accepted both by the officials of HR&CE, Trustees and the counsels, in which, the construction of new shops on the three sides of the main temple was discussed and it was agreed by all the parties concerned and the Departmental Engineers committed that the building of shops can be completed within 3 to 5 months and the allotments can be made to the respective traders within the overall maximum of 6 months. It was further agreed that the allotment of the newly built shops will be strictly on Lot Basis without giving room for any kind of favour to anybody. On completion of shops, all the respective parties opined that the allotment will be made strictly in the presence of Advocate Commissioners if this Hon'ble Court directs so. We further submit that the proposed Building plan submitted in the Annexure of this Report is subject to Modification/alteration as per the directions of this Hon'ble Court."

4. Today, the Temple authorities and Trustees along with their respective counsel are present. Both the learned counsel for the petitioner and the evicted parties have stated that their parties mutually agreed that there will not be any unauthorized constructions beyond the purview of allotment and they will run the shops only in places earmarked by the Temple authorities. It is in turn submitted by the Temple authorities that they are inclined to permit the shop owners to have their temporary business operations without any deviation in regard to the extent of space to be earmarked by them, till completion of the permanent superstructures.

5. In view of the submissions made on either side, this writ petition is disposed of, directing the Temple authorities to speed up the process of completion of construction activities, with further direction to both the parties to take recourse to what is agreed upon hereinabove. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CSI)

/True Copy/



To:

1. The Secretary,
Tourism, Culture & Religious Endowment Department,
Government of Tamil Nadu,
Fort St.George, Chennai-600 009.

2. The Commissioner,
Hindu Religious & Charitable Endowment Department,
Uthamar Gandhi Salai,
Nungambakkam, Chennai-600 034.

3. The Joint Commissioner,
HR&CE Admn. Department,
Sivagangai Division,
Sivagangai District.

+One cc to Mr.P.Banuprasath, Advocate, SR.No.94206

+One cc to Mr.P.Mahendran, Advocate, SRNo.94158

+2 ccs to Mr.K.K.Kannan, Advocate, SR.Nos.94653, 36756

+One cc to The Special Government Pleader, SR.No.94786

ar

RL/9C/7P/SKN/RSK/SAR1/1/2/2018

W.P(MD) No.1734 of 2017
2/2

21.12.2017