



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.11.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE R.MAHADEVANW.P. (MD) Nos.20022 to 20024 and 21366 to 21372 of 2017
and W.M.P. (MD) Nos.16303 to 16305 and 17656 to 17662 of 2017W.P. (MD) No.20022 of 2017

Muppidathi	... Petitioner in WP (MD) No.20022/2017
Kuruvammal	... Petitioner in WP (MD) No.20023/2017
Nagaraj	... Petitioner in WP (MD) No.20024/2017
Jeya	... Petitioner in WP (MD) No.21366/2017
K.Arumugam	... Petitioner in WP (MD) No.21367/2017
R.Bose	... Petitioner in WP (MD) No.21368/2017
C.Ganesan	... Petitioner in WP (MD) No.21369/2017
A.Balamurugan	... Petitioner in WP (MD) No.21370/2017
R.Kaveri	... Petitioner in WP (MD) No.21371/2017
Athiservai	... Petitioner in WP (MD) No.21372/2017

-vs-

1. The Commissioner,
Tamil Nadu Hindu Religious & Charitable Endowment Board,
Santhom, Chennai.
2. The Joint Commissioner,
Tamil Nadu Hindu Religious & Charitable Endowment Board,
K.K.Nagar, Madurai.
3. The Assistant Commissioner,
Tamil Nadu Hindu Religious & Charitable Endowment Board,
Madurai.
4. Arulmigu Aandavar Subramaniaswami Temple,
Through its Executive Officer,
Thirupparankundram,
Madurai.

... Respondents in all WPs.

PRAYER in W.P. (MD) Nos.20022 to 20024 of 2017 : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the 3rd Respondent dated 16.10.2017 in Na.Ka.No.5693/2013-4/A1, 5689/2013-4/A1 and 5688/2013-4/A1 respectively and quash the same, as it is arbitrary and illegal and consequently direct the respondents herein not to evict the petitioner without adopting appropriate procedures



contemplated in the Act.

PRAYER in W.P. (MD) Nos.21366 to 21372 of 2017 :

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus calling for the records relating to the impugned order of the 3rd respondent dated 11.11.2017 in Na.Ka.Nos.5208/2013-4/A1, 5212/2013-4/A1, 5492/2013-4/A1, 5218/2013-4/A1, 1276/2013-4/A1, 5219/2013-4/A1, and 5497/2013-4/A1 respectively and quash the same as it is arbitrary and illegal and consequently direct the respondents herein not to evict the petitioner without adopted appropriate procedures contemplated in the Act.

For All the Petitioners : Mr.P.Venkatesan
For Respondents : Mr.M.Alagathevan
Spl. Govt. Pleader
(for R1 to R3 in W.P.(MD) 20022 to 20024/2017)
Mr.J.Gunaseelan Muthiah
Govt. Advocate
(for R1 to R3 in W.P.(MD) 21366 to 21372/2017)
Mr.M.Muthu Geethaiyan
(for R4 in all the petitions)

C O M M O N O R D E R

These writ petitions have been filed, challenging the impugned orders of the 3rd respondent passed on various dates, directing the petitioners, being encroachers, to vacate the premises. The petitioners also sought a direction to the respondents herein not to evict them without adopting due process of law contemplated under the Act.

2. Since the issue involved in these writ petitions is one and the same, they are taken up together for final disposal by consent on either side. For the sake of brevity, the facts are being taken from W.P. (MD) No.20022 of 2017, which read as follows:

i) The petitioner was allowed to occupy the vacant site and put up the wall for a very meagre amount of rent of Rs.45/- on the basis of the oral agreement with the 4th respondent in the year 1974 and he has been paying the rent without any receipts. Subsequently, the petitioner was informed that the rent has been enhanced from Rs.45/- to Rs.234/- as determined by the Committee of the Temple authority, which was also paid by him;

ii) Such being the case, the petitioner was all of a sudden issued with the impugned order dated 16.10.2017, simply stating that he is an encroacher / trespasser of the Temple as per the 2nd respondent and was asked to vacate the property immediately, failing which suitable action under Section



79 of the HR&CE Act would be taken. Aggrieved by the overall act of the respondents, the petitioner is before this Court.

3. Learned counsel for the petitioners has relied on a judgment of the Hon'ble Division Bench of this Court passed in similar line in the case of R.Boopathy vs. The Commissioner HR&CE, Chennai and others [W.P.(MD) No.17104 of 2017] decided on 13.09.2017.

4. At this juncture, it is represented by the respondents that the petitioners in all these writ petitions have duly complied with the interim orders passed by this Court, regarding payment of dues, with an undertaking to pay the monthly rent without any default.

5. In view of the above submission, considering the facts and circumstances of the case and also following the judgment of the Hon'ble Division Bench of this Court (cited supra), these writ petitions are disposed of, directing the petitioners to submit their applications / representations to the 3rd respondent for change of tenancy and on such filing, the same shall be considered and disposed of by the 3rd respondent on merits and in accordance with law. It is made clear that the said indulgence has been shown to the petitioners on account of the fact that residential properties are involved in these matters and therefore, the petitioners shall pay the rent every month without any default. It is also made clear that failure on the part of the petitioners to pay the monthly rent consecutively for three months, the order of eviction already passed by the Joint Commissioner and the 3rd respondent will hold good. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To:

- 1.The Commissioner, Tamil Nadu Hindu Religious & Charitable Endowment Board, Santhom, Chennai.
- 2.The Joint Commissioner, Tamil Nadu Hindu Religious & Charitable Endowment Board, K.K.Nagar, Madurai.
- 3.The Assistant Commissioner, Tamil Nadu Hindu Religious & Charitable Endowment Board, Madurai.

+2CC to Mr.M.Muthugeethayan, Advocate, SR.No. 89875 & 89876

+1CC to Mr.P.Venkatesan, Advocate, SR.No. 90182

[https://hcservices.ecourts.gov.in/Reser\(MS\) Nos.20022 to 20024 and 21366 to 21372 of 2017](https://hcservices.ecourts.gov.in/Reser(MS) Nos.20022 to 20024 and 21366 to 21372 of 2017)

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