

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2018

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

Review Application (W).Nos.119 to 124 of 2017 in W.P.Nos.13404 to 13409 of 2017 & WMP Nos.17712, 17960, 17962, 17964, 17966, 17968, 17959, 17961, 17963, 17965 and 17967 of 2017

Review Application No.119 of 2017

The Executive Officer,
Arulmighu Kottai Mariyamman Thirukoil,
Kottai, Salem-636 001.

...Applicant

Vs.

S.Ramesh

... Respondent

Prayer:- Review Applications are filed under Section 114 Order XLVII Rule 1 of the Code of Civil Procedure, 1908, to review the common order dated 25.05.2017 passed in W.P.Nos.13404 to 13409 of 2017.

For Applicant : Mr.K.Selvaraj
in all Review As.

For respondents : Mr.R.Karthikeyan
in all Review As.

WEB COPY
COMMON ORDER

Seeking to review the order dated 25.05.2017 passed in
W.P.Nos.13404 to 13409 of 2017, these review applications have been filed.

2. The learned counsel appearing for the applicant would submit that there involves certain suppression of fact and no instruction has been given to the learned Government Advocate, who was authorised to represent. It was not a temporary arrangement as recorded by this Court in paragraph 4 of the order. He would further submit that after getting approval, entire construction has been demolished and deities will be housed in a new temple. The respondents/writ petitioners did not have vested right. What has been given by the review applicant/respondent was only licences. Though many of them not received notices, writ petitions were filed with xerox copy of the orders issued to others by interpreting their names.

3. The learned counsel appearing for the respondents/writ petitioners would submit that these persons have been carrying on business for the past 25 years. Without any basis, they have been asked to remove their respective shops. There are other sufficient places available within the temple precinct. Therefore, they can be accommodated in the alternative places. In such an eventuality, they are ready and willing to vacate the present shops.

4. It appears that an undertaking has been given by the learned Government Advocate without authority. Secondly, it is not a case of temporary renovation, but a reconstruction of the temple albeit in the same

place. Now, after getting appropriate approval, the entire construction made earlier was demolished. What had been given to the respondents/writ petitioners was only a licence. When once the entire existing building goes, the rights also get washed away along with it.

5. This Court cannot issue a positive direction to the applicant to give shops to the respondents/writ petitioners now in some other places or to lease out the shops after putting up construction. After all, the person who takes the decision is not before this Court, while passing this order, and earlier at the time of the passing orders in the writ petition. Such a decision has to be taken by the authorities under the Hindu Religious and Charitable Endowment Act, 1959. The next question would come as to whether the shops would be leased out or given in favour of the respondents/writ petitioners. Suffice it to state that this Court cannot go into all those aspects. The Hindu Religious and Charitable Endowment Act, 1959, is a complete code by itself.

6. In such view of the matter, the order passed by this Court dated 25.05.2017 stands recalled for the reasons aforesaid, particularly, when there is no temple as on today, except the deities being housed. However, the authorities concerned are directed to consider the possibility of either

permitting the respondents/writ petitioners, to have shops, after the constructions or giving priority, as the case may, provided a decision is made to have shops within the temple premises. The authorities shall also consider the possibility to accommodate the respondents/writ petitioners in any other place within the temple premises until the completion of the new construction. The statement of the counsel for the respondents/writ petitioners that the existing shops will be vacated and vacant possession will be given within a period of two weeks from the date of receipt of a copy of this order is recorded.

7. With the above directions, the review applications stand disposed of. Consequently, connected writ miscellaneous petitions are closed.

13.02.2018

raa

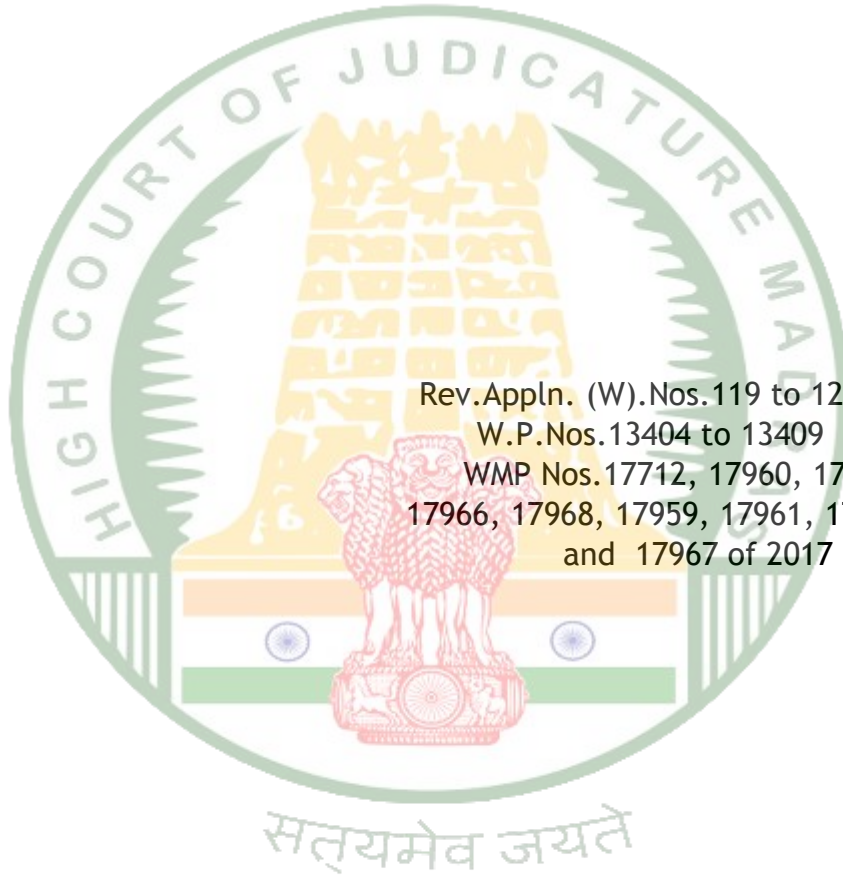
To

The Executive Officer,
Arulmighu Kottai Mariyamman Thirukoil,
Kottai, Salem-636 001.

WEB COPY

M.M.SUNDRESH,J.

raa



Rev.Appln. (W).Nos.119 to 124 of 2017 in
W.P.Nos.13404 to 13409 of 2017 &
WMP Nos.17712, 17960, 17962, 17964,
17966, 17968, 17959, 17961, 17963, 17965
and 17967 of 2017

WEB COPY

13.02.2018