

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2018

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.17564 of 2018 and
WMP.No.20848 of 2018

1. Mohamed Ibrahim Kabeer @
Si.Saa.Kabeer
2. Regina Banu @ Ayisha BanuPetitioners

Versus

1. Commissioner,
Hindu Religious and Charitable Endowment
Administration Department,
Uthamar Gandhi Road,
Nungambakkam, Chennai-34.
2. The Joint Commissioner,
Hindu Religious and Charitable Endowment
Administration Department, Thanjavur.
3. The Assistant Commissioner,
Hindu Religious and Charitable Endowment
Administration Department,
Nagapattinam, Nagapattinam District.
4. The Executive Officer,
Arulmigu Vedaranyeswara Swamy Temple,
Vedaranyam Town and Taluk,
Nagapattinam District. Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st respondent to pass orders in Revision Petition filed by the petitioners at the earliest point of time in Thabal No.35154 dated 29.06.2018 and consequently, forbearing the 4th respondent by initiating action under Section 78 of HR & CE Act based on the ex-parte order in Pa.Ma.No.11/2015/E2/dated 03.05.2018 which is served on the petitioners on 25.06.2018 at about 7.30 a.m.

For Petitioners	: Mr.V.Kasinatha Bharathi
For Respondents	: Mr.M.Maharaja, Special Government Pleader

O R D E R

The Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the 1st respondent to pass orders in Revision Petition filed by the petitioners at the earliest point of time in Thabal No.35154 dated 29.06.2018 and consequently, forbearing the 4th respondent by initiating action under Section 78 of HR & CE Act based on the ex-parte order in Pa.Ma.No.11/2015/E2/dated 03.05.2018 which is served on the petitioners on 25.06.2018 at about 7.30 a.m.

2. The case of the petitioners is that they are in possession and enjoyment of the property covered in Survey No.899-2 for an extent of 004.0 ares and their father has paid rent for the said possession and enjoyment to the respondents up to the year 2013. After his death, there was a default in payment of rent and subsequently, notices under Section 78 of the Hindu Religious and Charitable Endowment Act were issued informing that their father is an encroacher. As against the order passed under Section 78 of the Act, the petitioners were unable to proceed because they did not know about the proceedings passed by the Joint Commissioner of Hindu Religious and Charitable Endowment Department, Thanjavur in Application No.11/2015.

3. The further case of the petitioners is that all of a sudden, on 25.6.2018 at about 7.30 a.m., the 3rd respondent pasted a Notice under Section 78 of the Act in the house of the petitioners without intimating anything about the further consequences. Since the 1st respondent passed an ex-parte order against the petitioners, they filed a Revision Petition before the same authority, namely, the Commissioner, HR & CE Department, the 1st respondent herein under Section 21(1) of the Act. During the pendency of the said revision, the petitioners have filed the present petition seeking to issue a direction to the respondents not to disturb their possession and enjoyment in the property-in-dispute and to dispose of the revision petition.

4. Heard the learned Counsel appearing for the petitioners and the learned Special Government Pleader appearing for the respondents.

5. Considering the facts and circumstances of the matter, this Court directs the Commissioner, HR & CE Department, Chennai, the 1st respondent herein to consider and dispose of the Revision Petition of the petitioners dated 29.06.2018 on merits and in accordance with law, within a period of two months from the date of receipt of a copy of this Order.

6. The Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. Commissioner,
Hindu Religious and Charitable Endowment
Administration Department,
Uthamar Gandhi Road,
Nungambakkam, Chennai-34.
2. The Joint Commissioner,
Hindu Religious and Charitable Endowment
Administration Department, Thanjavur.
3. The Assistant Commissioner,
Hindu Religious and Charitable Endowment
Administration Department,
Nagapattinam, Nagapattinam District.
4. The Executive Officer,
Arulmigu Vedaranyeswara Swamy Temple,
Vedaranyam Town and Taluk, Nagapattinam District.

+1cc to Mr.V.Kasinatha Bharathi, Advocate, S.R.No. 45596.

W.P.No.17564 of 2018

BM 13/07/2018.