

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 19.12.2018

CORAM
THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

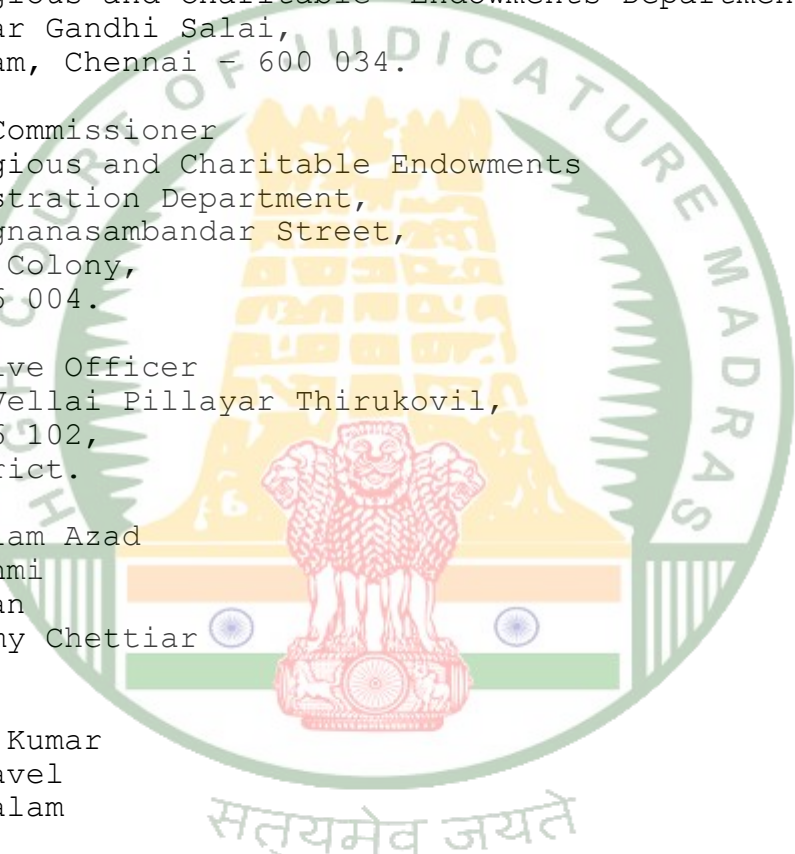
W.P.No.28499 of 2018

P.Selvarajan

.. Petitioner

Vs.

- 1.The Principal Secretary/ Commissioner
Hindu Religious and Charitable Endowments Department
119, Uthamar Gandhi Salai,
Nungambakkam, Chennai - 600 034.
- 2.The Joint Commissioner
Hindu Religious and Charitable Endowments
Administration Department,
319, Thirugnanasambandar Street,
State Bank Colony,
Salem - 636 004.
- 3.The Executive Officer
Arulmighu Vellai Pillayar Thirukovil,
Attur - 636 102,
Salem District.
- 4.Y.Abdul Kalam Azad
- 5.M.Rajalakshmi
- 6.G.Venkatesan
- 7.T.M.Gurusamy Chettiar
- 8.N.S.Selvan
- 9.T.Vanavil
- 10.S.Senthil Kumar
- 11.A.V.Thangavel
- 12.S.Arunachalam
- 13.R.Sethu
- 14.S.Govindarajulu
- 15.V.Subash Chandra Bose
- 16.R.Somasundaram
- 17.B.Periyasamy
- 18.S.Muthu
- 19.T.A.Sampath Kumar
- 20.A.M.Ramasamy
- 21.N.Ramachandran
- 22.J.Ramaraju
- 23.V.P.Rajan
- 24.A.Nirmal Prakash
- 25.V.Selvan
- 26.R.Prabhakaran



27.A.Thiyagarajan
28.V.Madheswaran
29.R.Dharmakrishnan
30.R.Muthu Gounder
31.S.Padmavathy

.. Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the 1st to 3rd respondents to conduct fresh auctions for the shops situated in 2.78 Acres of land belonging to the Arulmigu Vellai Pillayar Kovil, Attur Salem District.

For Petitioner : Mr.K.Rajasekaran

For RR1 & 2 : Mr.M.Maharaja
Special Government Pleader

For R3 : Mr.A.Rajkumar

For R5 & R26 : Mr.A.V.Raja

O R D E R

The petitioner has filed this Writ Petition seeking a direction to the respondents 1 to 3, who are the officials of Hindu Religious and Charitable Endowments Department, to conduct a fresh auction for the shops situated in 2.78 acres of land belonging to the Arulmigu Vellai Pillayar Kovil, Attur, Salem District.

2. Admittedly, there are arrears from all the tenants/occupants of the said premises. None of them have got any valid lease as on date and the tenants have been squatting over the property. The third respondent/Executive Officer has also not taken any steps to evict the defaulters, who have not paid the rental arrears. The statement filed by the Executive Officer is alarming that out of the 39 tenants not even one tenant is without arrears of rent and few of them are in arrears for several lakhs. Already, this Court has taken action to restore the lands of the Temples from wrong hands. Here, though the respondents 4 to 31 claimed to be the tenants, after the expiry of the lease deed if any, they are only encrochers. Despite knowing the fact that each of the shop, depending upon the size, would generate more income per month, the third respondent has not taken any steps so far. It is only after the writ petition is filed, the above statement is prepared.

3. Heard both sides.

4. Today, the learned Special Government Pleader appearing

for the HR & CE Department submitted that already Section 78 proceedings have been initiated against the occupants of the shops and he says that it will take atleast three months to complete. Therefore, this Court is of the opinion that three months period may be granted to the department for completing the enquiry under Section 78 of HR & CE Act and recover possession from the occupants/encroachers. Thereafter, the HR & CE has to conduct fresh auction for the shops by fixing fair rent for each of the shops.

5. It is alleged in the writ petition that many of the original lessees have either died or vacated long back and the present occupants are all not original lessees and have entered into shops on pagadi by paying exorbitant amount to third parties. The temple lands have been ransacked by the encroachers because of the inefficiency of the officials.

6. The third respondent is directed to complete Section 78 proceedings within a period of three months from the date of receipt of a copy of this order, as no further time will be granted in this regard and thereafter to auction the shops as per the rate that may be fixed by the Rent Fixation Committee within a period of one month. In the meanwhile, the arrears recovered from them may be properly accounted for.

7. With the above directions, this writ petition is disposed of. No costs.

8. Post 'for compliance' on 01.04.2019.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

rsi

To

1.The Principal Secretary/ Commissioner
Hindu Religious and Charitable Endowments Department
119, Uthamar Gandhi Salai,
Nungambakkam, Chennai - 600 034.

2.The Joint Commissioner
Hindu Religious and Charitable Endowments
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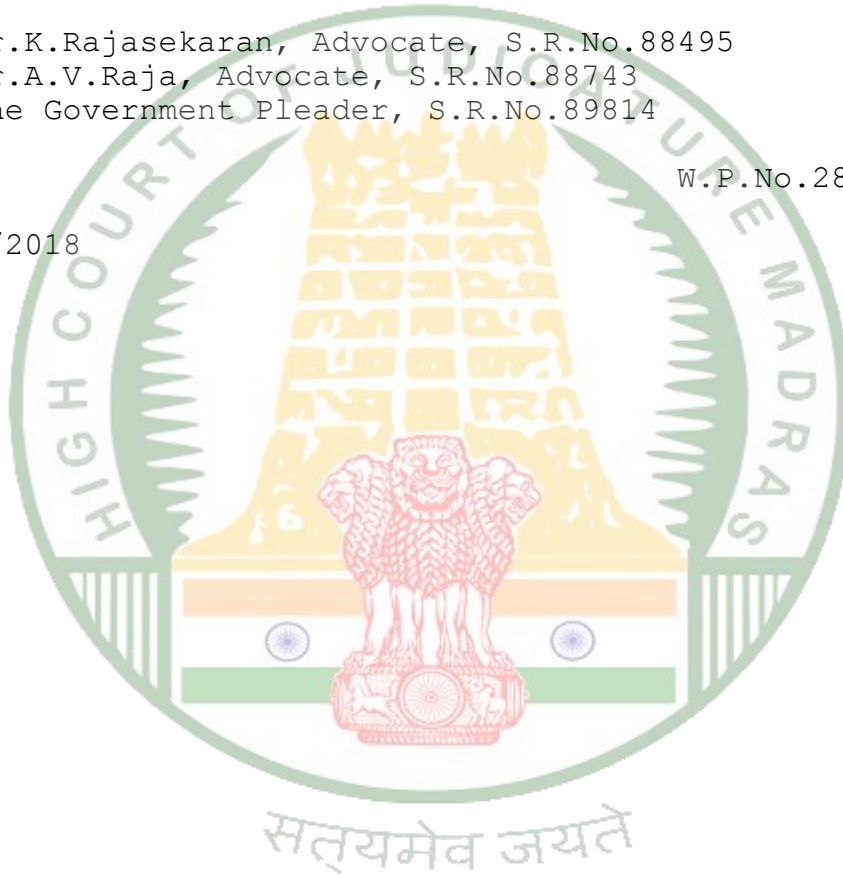
Copy To:

The Section officer,
Writ Section,
High Court, Madras
(Post this case on 04.01.2019 for Report Compliance)

+1cc to Mr.K.Rajasekaran, Advocate, S.R.No.88495
+1cc to Mr.A.V.Raja, Advocate, S.R.No.88743
+1cc to the Government Pleader, S.R.No.89814

W.P.No.28499 of 2018

rrs 26/12/2018



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