



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.02.2018

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN**

W.P.(MD)No.3602 of 2018

and

W.M.P.(MD)No.3732 of 2018

C.Veilumuthu

... Petitioner

-Vs-

- 1.The Commissioner,  
Hindu Religious and Charitable Endowment Board,  
Nungambakkam, Chennai.
- 2.The Joint Commissioner / Executive Officer,  
O/o. Executive Officer,  
Arulmigu Subramaniya Swamy Thirukovil,  
Thiruchendur, Thoothukudi District.
- 3.The Assistant Commissioner,  
Hindu Religious and Charitable Endowment Board,  
Thoothukudi, Thoothukudi District. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents herein to consider the petitioner's representation dated 26.01.2018 and pass appropriate orders to drop all further action in pursuance to the show cause notice dated 02.09.2017 and to regularize the lease for Shop No.68, Panthal Mandapam, Tiruchendur in petitioner's name within a time stipulated by this Court.

For Petitioner : Mr.D.Nallathampi  
For R1 and R2 : Mrs.J.Padmavathi Devi,  
Special Government Pleader.  
For R3 : Mr.Muthugeethiyan

ORDER

This writ petition has been filed, seeking a direction to the respondents to consider the petitioner's representation dated 26.01.2018.

2.According to the petitioner, a shop belongs to the respondents, originally leased out in favour of one K.Utchimahali, subsequently, the petitioner was inducted as sub-tenant, and he is in possession and occupation of the shop for more than 25 years and paying lease amount regularly. Now, all of a sudden, the second respondent issued a show cause notice dated 02.09.2017 directing the petitioner to vacate the premises. The petitioner being a sub-tenant, raised his objections and sent a representation before the second respondent and the matter is still pending, so far, no order has been passed, hence, the present writ petition has been filed.



3.Today, when the matter is taken up for hearing, the learned Special Government Pleader appearing for the respondents 1 and 2 submitted that already the respondents have initiated proceedings under Section 78 of the HR & CE Act and the second respondent being an Executive Officer of the temple, already requested the third respondent to send a proposal to the Joint Commissioner Administrative, to initiate proceedings under Section 78 of the HR & CE Act. Now, the third respondent also sent a proposal to the second respondent. Now, the proposal is pending with the the second respondent.

4.In the above circumstances, considering the fact that already the proceedings under Section 78 of the HR & CE Act has been initiated by the authority, the show cause notice dated 02.09.2017 issued by the second respondent need not be proceed with. In such circumstances, the second respondent is directed not to proceed with the show cause notice issued by him dated 02.09.2017. However, as a proceeding under Section 78 of the HR & CE Act is now initiated, the respondents are directed to proceed with the enquiry and issue suitable notice to the petitioner, and after issuing notice, the respondents are directed to pass orders on merits and in accordance with law. Till the final order passed in the proceedings initiated under Section 78 of the HR & CE Act, the possession of the petitioner should not be disturbed.

5.However, the learned counsel appearing for the petitioner submitted that during the festival conducted in Masi and Aavani in the temple, the deity will be placed in the shop owned by the petitioner. On that date, as per custom, the petitioner should vacate the shop one day prior to that date. The petitioner also undertakes that he will vacate the shop on those festival date.

6.Accordingly, with the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CSIII)

/True Copy/

Sub-Assistant Registrar

To

- 1.The Commissioner,  
Hindu Religious and Charitable Endowment Board,  
Nungambakkam, Chennai.
- 2.The Joint Commissioner / Executive Officer,  
O/o. Executive Officer,  
Arulmigu Subramaniya Swamy Thirukovil,  
Thiruchendur, Thoothukudi District.
- 3.The Assistant Commissioner, HR & CE, Thoothukudi District  
+One cc to Mr.D.Nallathambi, Advocate, SR.No.50290  
+One cc to the Special Government Pleader, SR.No.50913  
+One cc to Mr.M.Muthugeethayan , Advocate, SR.No.50095

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RL/7C/2P/SV/MMS/SAR2/26/3/2018

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