



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.01.2018

CORAM :

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition (MD) No.761 of 2018

and

W.M.P (MD) No.820 of 2018

V.Vasantha

... Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable
Endowment Board,
Nungambakkam,
Chennai.

2.The Joint Commissioner/Executive Officer,
Arulmighu Dhandayuthaswamy Temple,
North Giriveethi, Palani,
Dindigul District.

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Dindigul, Dindigul District. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records pertaining to the impugned order passed by the 3rd respondent in his proceedings Na.Ka.No.1397/2015/A3 dated 17.11.2017 and quash the same on the ground that the same is arbitrary illegal and without any legal basis.

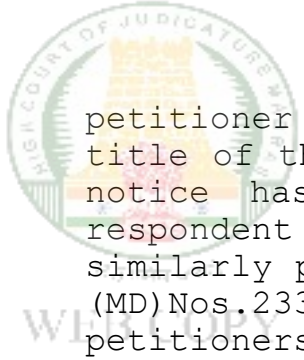
For Petitioner	: Mr.S.Karthik
For Respondents 1&3	: Mrs.J.Padmavathi Devi, Special Government Pleader.
For 2 nd Respondent	: Mr.K.Govindarajan

ORDER

Challenging the notice issued by the third respondent under Section 78 of the Hindu Religious and Charitable Endowments Act, 1959 directing the petitioner to hand over the possession of the property belongs to Avaiyammal Trust, the present writ petition has been filed.

2.Heard Mr.S.Karthick, learned counsel appearing for the petitioner, Mrs.J.Padmavathi Devi, learned Special Government Pleader appearing for the respondents 1 and 3 and Mr.K.Govindarajan, learned counsel appearing for the second respondent.

3.Today, when the matter is taken up for hearing, learned counsel appearing for the second respondent submitted that the petitioner is a tenant in the trust property. Earlier, the



petitioner along with other tenants have filed a suit disputing the title of the respondents. Subsequently, when the suit is pending, a notice has been issued by the Joint Commissioner, the second respondent herein which was challenged before this Court by similarly placed tenants by way of a batch of writ petitions in W.P (MD) Nos. 23392 to 23398 of 2017. In the above circumstances, the petitioners therein have filed undertaking affidavits stating that they are accepting the title of the respondents and they have withdrawn the suit filed by them and they are inclined to file an application in the capacity of tenants and they are ready to pay the fair rent, as fixed by the temple, from the month of January 2018. In the above circumstances, this Court by an order dated 21.12.2017 disposed of the said writ petitions directing the first respondent to consider the claim of the petitioners therein. The relevant portion of the said order is extracted hereunder:-

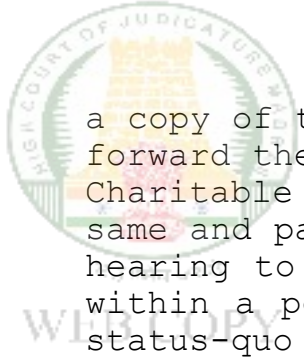
"5. Though the petitioners initially questioned the title of the temple over the properties in question, now agreed that they are the lawful tenants under Arulmighu Dhandayuthaswamy Temple, Palani, Dindigul District and they are ready to pay the fair rent, as fixed by the temple, from the month of January 2018 and they have withdrawn the civil suits filed against the respondents before the District Munsif Court, Palani and to that extent, they have filed undertaking affidavits, separately, before this Court.

6. The learned counsel appearing for the petitioners would also submit that the petitioners are inclined to submit applications in the capacity of lawful tenants, before the first respondent.

7. Considering the facts and circumstances of the case and also considering the undertaking affidavits filed by the petitioners, the petitioners are directed to submit applications before the first respondent within a period of two weeks from the date of receipt of a copy of this order and on such filing, the first respondent shall forward the same to the Commissioner, Tamil Nadu Hindu Religious and Charitable Endowment Department, Chennai, who shall consider the same and pass appropriate orders, after affording due opportunity of hearing to the petitioners as well as any of the interested parties, within a period of six weeks, thereafter. It is also directed that status-quo to be maintained till the disposal of the said applications."

4. Today, learned counsel appearing for the petitioner filed an undertaking affidavit of the petitioner accepting the title of the respondents and the petitioner is inclined to file an application in the capacity of tenant and he is ready to pay the fair rent as fixed by the temple, from the month of January 2018.

5. Considering the facts and circumstances of the case and <https://hccs.courtsilibrary.org/> the undertaking affidavit filed by the petitioner, the petitioner is directed to submit application before the second respondent within a period of two weeks from the date of receipt of



a copy of this order and on such filing, the second respondent shall forward the same to the Commissioner, Tamil Nadu Hindu Religious and Charitable Endowment Department, Chennai, who shall consider the same and pass appropriate orders, after affording due opportunity of hearing to the petitioner as well as any of the interested parties, within a period of six weeks, thereafter. It is also directed that status-quo to be maintained till the disposal of the said application.

6. Accordingly, the writ petition is allowed. No costs. Consequently, W.M.P. (MD) No. 820 of 2018 is closed.

Sd/-
Assistant Registrar (AS)

/True Copy/

Sub-Assistant Registrar

To

1. The Commissioner,
Hindu Religious and Charitable
Endowment Board, Nungambakkam,
Chennai.
2. The Joint Commissioner/Executive Officer,
Arulmighu Dhandayuthaswamy Temple,
North Giriveethi, Palani,
Dindigul District.
3. The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Dindigul, Dindigul District.

+One cc to The Special Government Pleader, SR.No.42530

+One cc to M/s.S.Karthik, Advocate, SR.No.42114

+One cc to M/s.K.Govindarajan, Advocate, SR.No.42736

sms

RL/7C/3P/KK/SAR1/6/2/2018

Writ Petition (MD) No.761 of 2018
and

W.M.P (MD) No.820 of 2018
12.01.2018