



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.01.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

WP (MD) No.21387 of 2017

and

WMP (MD) No.17680 of 2017

M.Chockalingam
S/o.Muniyandi Servai
Hereditary Trustee,
Arulmigu Shree Sundara Ganesa
Moorthy Koil Trust,
Mill Gate, Melur,
Madurai District.

... Petitioner

Vs.

1. The Joint Commissioner,
The Tamil Nadu Hindu Religious and
Charitable Endowments Dept.,
Madurai.
2. The Assistant Commissioner,
The Tamil Nadu Hindu Religious and
Charitable Endowments Dept.,
Madurai.
3. The Commissioner,
Melur Municipality,
Melur Taluk,
Madurai District.
- 4.S.Ramachandran
- 5.R.Vengata Subramaniyan
- 6.S.Ammaiyappan

... Respondents

Petition filed under Article 226 Constitution of India to issue a writ of Mandamus directing the respondents 1 and 2 to initiate appropriate action against the Respondents 4 to 6 herein under the provisions of the Tamil Nadu Hindu Religious and Charitable Endowments Act based on the petitioner's complaint dated 03.11.2017 by removing the encroachments made by the respondents 4 to 6 herein in the property measuring 27 Cents situated in Old Survey No.9/2, Ward No.D, Block No.4, T.S.No.23, Karuthapuliyampatti Village, Melur Taluk, Madurai District belonging to the Petitioner's temple namely Arulmigu Shree Sundara



Ganesa Moorthy Temple and consequently direct the third respondent to initiate action against the respondents 4 to 6 for the aforesaid unauthorised construction made by them in the temple property.

For Petitioner : Mr.T.Veerakumar
For R1 & R2 : Mr.Aayiram K.Selvakumar
Additional Government Pleader
For R3 : Mr.C.Sakthivel
For R4 : Mr.R.Vijayakumar
For R5 : Mr.J.C.Rathinavel Pandian
For R6 : No appearance

ORDER

This writ petition has been filed seeking direction to the respondents 1 and 2 to take action against the respondents 4 to 6 based on the petitioner's complaint dated 03.11.2017 and also to remove the encroachment made by them in the petitioner's temple property. Pending writ petition, this Court granted interim injunction, restraining the respondents 4 to 6 from making any construction in the encroached property.

2.Today, this writ petition has been posted under the caption "for withdrawal" on the basis of the letter of requisition given by the learned counsel appearing for the petitioner to the Registry, which was opposed by the learned Additional Government Pleader appearing for the respondents 1 and 2, stating that already the respondents 1 and 2 issued notice under Section 78 of the HR & CE Act, 1959 to evict the respondents 4 to 6 and enquiry is pending. Now, the petitioner, colluding with the respondents 4 to 6 wants to withdraw this writ petition to give protection to them.

3.Since the petitioner only wants to withdraw the writ petition filed by him, he is permitted to withdraw the writ petition. However, it is made clear that since notice under Section 78 of the said Act has been issued and enquiry is pending against the respondents 4 to 6, the second respondent is directed to proceed with the enquiry and pass suitable orders on merits and in accordance with law and till the final order is passed in the proceedings initiated under Section 78 of the Act, the respondents 4 to 6 are directed not to put up any construction in the above property. No costs. Consequently, WMP(MD)No.17680 of 2017 is closed.

Sd/-
Assistant Registrar(T&P)



To

1. The Joint Commissioner,
The Tamil Nadu Hindu Religious and
Charitable Endowments Dept.,
Madurai.

2. The Assistant Commissioner,
The Tamil Nadu Hindu Religious and
Charitable Endowments Dept.,
Madurai.

3. The Commissioner,
Melur Municipality,
Melur Taluk,
Madurai District.

+ 2 ccs TO Mr.J.Gunaseelan Muthiah ,Advocate in SR Nos.45061,45653
+ 1 cc TO Mr.R.VIJAYAKUMAR , Advocate in SR No. 45316

mj

AE/SV MMS/SAR4/19.02.2018/3P/7C

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