



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. (MD) Nos.19867 & 19868 of 2018

and

W.M.P. (MD) Nos.17653, 17654, 17655 & 17656 of 2018

Shanmugavalli ... Petitioner in W.P.(MD) No.
19867 of 2018

Mallika ... Petitioner in W.P.(MD) No.
19868 of 2018

vs.

- 1.The Joint Commissioner
Hindu Religious and Charitable
Endowments Department, Madurai
- 2.The Deputy Commissioner cum
Executive Officer
Arulmigu Subramaniaswamy Temple
Thiruparankundram
Madurai-625 005
- 3.The Assistant Commissioner
Hindu Religious and Charitable
Endowments Department
Madurai
- 4.The District Collector
Madurai District, Madurai
- 5.The District Revenue Officer
Madurai District, Madurai
- 6.The Revenue Divisional Officer
Madurai District, Madurai
- 7.The Tahsildar
Madurai South Taluk
Madurai District



8.The Tahsildar
Thiruparankundram Taluk
Madurai District

... Respondents in both W.Ps.

PRAYER (in W.P.(MD) No.19867 of 2018): Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorari calling for records relating to the impugned order dated 21.11.2017 passed in Miscellaneous Petition No.49/2017/E1 by the first respondent and the consequential impugned notice dated 24.08.2018 in Na.Ka.No.370/2017-4/Aa1 issued by the third respondent and quash the same.

PRAYER (in W.P.(MD) No.19868 of 2018): Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorari calling for records relating to the impugned order dated 21.11.2017 passed in Miscellaneous Petition No.60/2017/E1 by the first respondent and the consequential impugned notice dated 24.08.2018 in Na.Ka.No.372/2017-4/Aa1 issued by the third respondent and quash the same.

For Petitioner : Mr.T.R.Jeyapalam
(in both W.Ps.)

For Respondents : Mr.S.Angappan
(in both W.Ps) Govt. Advocate (Civil Side)
for R1, R3 to R8

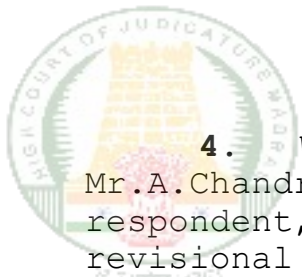
Mr.A.Chandrasekaran for R2

C O M M O N O R D E R

The reliefs sought in both the writ petitions are similar and identical and the issues and grounds raised therein are also similar and identical and therefore, both the writ petitions have been taken together for common disposal as hereunder.

2. What is put to challenge in the present writ petitions is an order, dated 21.11.2017, passed by the first respondent, declaring the petitioners as "Encroachers" in respect of the premises occupied by them.

3. According to the learned counsel for the petitioners, pursuant to the impugned proceedings, dated 24.08.2018, the respondents are trying to evict the petitioners from the properties, which are under their occupation for a considerable time.



4. When the matter was taken up for admission, Mr.A.Chandrasekaran, learned counsel appearing for the second respondent, would submit that the petitioners are having effective revisional remedy under the provisions of the Hindu Religious and Charitable Endowments Act, 1959 (hereinafter, referred to as "the Act") before the Commissioner of H.R. & C.E.Department or they can approach the competent Civil Court under Sub-Section (2) of Section 79 of the Act.

5. According to the learned counsel for the petitioners, without exhausting the effective alternate remedies, as provided under the Act, the petitioners have chosen to approach this Court by invoking its extraordinary jurisdiction under Article 226 of the Constitution of India.

6. At this juncture, the learned counsel for the petitioners requests this Court to grant interim protection, in case the writ petitions are dismissed on the ground of availability of alternative remedies, particularly, in view of the fact that petitioners are illiterate persons and in occupation of small piece of property measuring 500 sq.ft.

7. Considering the request made by the learned counsel for the petitioners, this Court disposes of the writ petitions as being not maintainable for the reason that alternative remedies are available either under Section 21 or Sub-Section (2) of Section 79 of the Act.

8. In the above circumstances, there shall be an order of *status quo* for a period of three weeks from today (i.e.17.09.2018) and in the meanwhile, it is open to the petitioners to invoke the alternative remedies as available under the Act, if they are so advised. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS-II)

Note to Office: Registry is directed to return the original impugned orders to the petitioners, after keeping a photocopy of the same on file and getting proper acknowledgement.

To:

1.The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department, Madurai



2.The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Department,
Madurai.

WEB COPY

3.The District Collector,
Madurai District, Madurai.

4.The District Revenue Officer,
Madurai District, Madurai.

5.The Revenue Divisional Officer,
Madurai District, Madurai.

6.The Tahsildar,
Madurai South Taluk,
Madurai District.

7.The Tahsildar,
Thiruparankundram Taluk,
Madurai District.

8. The Section officer,
V.R. Section, Madurai Bench of Madras High Court,
Madras. (2 copies)

+2 CC To MR.T.R.JEYAPALAM, Advocate SR. NO.84547 & 84548

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and
W.M.P. (MD) Nos.17653, 17654, 17655
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KRK

TR/SKN/SAR-II (19.09.2018) 4P 12C