



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. (MD) No.19886 of 2018

and

W.M.P. (MD) Nos.17672 & 17673 of 2018

Ponvani

... Petitioner

vs.

The Executive Officer  
Arulmigu Kalyana Sundareswarar Temple  
Avaniyapuram  
Madurai-625 012

... Respondent

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorari calling for the records relating to the impugned eviction order made by the respondent dated 16.08.2018 and quash the same as illegal.

For Petitioner : Mr.M.Ajmal Khan, Senior Counsel  
for M/s.Ajmal Associates

For Respondent : Mr.S.Manohar

### **O R D E R**

What is put to challenge in this writ petition is the notice, dated 16.08.2018, issued by the respondent - Executive Officer of Arulmigu Kalyana Sundareswarar Temple, Avaniyapuram, directing the petitioner to hand over the premises under her occupation, as according to him, the premises is belonging to the Temple, within a period of fifteen days from the date of receipt the notice, failing which further action would be initiated under Sections 78 and 79 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (hereinafter, referred to as "the Act").

2. The learned Senior Counsel appearing for the petitioner would submit that the respondent - Executive Officer has no authority to issue such a notice under the provisions of the Act, since removal of encroachment contemplates elaborate procedure under the provisions of the Act and such a procedure cannot be given go-by by the respondent - Executive Officer by issuing such a notice.



3. At this juncture, the learned counsel appearing for the respondent would submit that the notice, which is impugned in this writ petition, is only a preliminary notice issued by the respondent and only in case of non-compliance, further action would be initiated and the procedure would be followed in terms of Sections 78 and 79 of the Act. Therefore, the present writ petition is premature and not to be entertained by this Court.

4. Considering the submissions made by the learned Senior Counsel appearing for the petitioner and the learned counsel appearing for the respondent, this Court is of the view that the present writ petition is premature for the simple reason that the notice, which is impugned in this writ petition, is only a preliminary notice calling upon the petitioner to vacate the premises. In case the petitioner fails to vacate the premises, as indicated in the notice, further action would be initiated under Sections 78 and 79 of the Act, which means that the respondent would follow the procedure as contemplated under the above Sections and therefore, this Court is of the considered view that no prejudice would be caused to the petitioner, if such an action is initiated under the provisions of the Act.

5. It is always open to the petitioner to putforth her contentions, when a regular notice is issued under Sections 78 and 79 of the Act and it is certainly not open to the petitioner to approach this Court at this stage by invoking the writ jurisdiction of this Court.

6. For the above said reasons, this Court is of the view that the writ petition, as it is, is not maintainable and the same is, therefore, dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (J)

// True Copy //

Sub Assistant Registrar(CS-I)

+1 CC To MR.S.MANO HAR, Advocate SR. NO. 84962

**W.P. (MD) No.19886 of 2018**

**and**

**W.M.P. (MD) Nos.17672 & 17673 of 2018**

KRK

TR/RSK/SAR-I (12.10.2018) 2P 2C