



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

WEB COPY

W.P.(MD) Nos.20715, 20716 & 20717 of 2018

and

W.M.P.(MD) Nos.18469, 18470, 18471, 18472, 18473 & 18474 of 2018

V.Rajesh	...	Petitioner in W.P.(MD) No. 20715 of 2018
K.Chitra Devi	...	Petitioner in W.P.(MD) No. 20716 of 2018
S.Subetha Begum	...	Petitioner in W.P.(MD) No. 20717 of 2018

vs.

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

... Respondent in all W.Ps.

PRAYER (W.P.(MD) No.20715 of 2018): 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.

PRAYER (W.P.(MD) No.20716 of 2018): 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.

PRAYER (W.P.(MD) No.20717 of 2018): 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 21.08.2018 and quash the same as illegal.



For Petitioner : Mr.M.Mahaboob Athiff
(in all W.Ps.)

For Respondent : Mr.S.Manohar
(in all W.Ps.)

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COMMON ORDER

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

2. What are put to challenge in these writ petitions are the notices, dated 16.08.2018 and 21.08.2018, issued by the respondent - Executive Officer of Arulmigu Kalyana Sundareswarar Temple, Avaniyapuram, directing the petitioners to hand over the premises under their occupation, as according to them, the premises are 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").

3. The learned counsel appearing for the petitioners 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 a go-by by the respondent - Executive Officer by issuing such a notice.

4. At this juncture, the learned counsel appearing for the respondent would submit that the notices, which are impugned in these writ petitions, are only preliminary notices 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 petitions are premature and not to be entertained by this Court.

5. Considering the submissions made by the learned counsel appearing for the petitioners and the learned counsel appearing for the respondent, this Court is of the view that the present writ petitions are premature for the simple reason that the notices, which are impugned in these writ petitions, are only preliminary notices calling upon the petitioners to vacate the premises. In case the petitioners fail to vacate the premises, as indicated in the notices, 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 petitioners, if such an action is initiated under the provisions of the Act.

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

7. The respondent is directed to follow due process of law and the provisions of the Act before taking any adverse action against the petitioners.

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

Sd/-

Assistant Registrar (RTI)

// True Copy //

Sub Assistant Registrar (CS-II)

To

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

+ 1 CC TO M/s. AJMAL ASSOCIATES, IN SR NO.88557

+ 3 CC TO MR.S.MANO HAR, ADVOCATE IN SR NO.88341,88342 & 88343

KRK

BU/RSK/SAR-2 : 23.10.2018 : 3P/6C

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2018
and
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