

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 15.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
AND
THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

W.A.(MD)No.335 of 2019
and
C.M.P(MD)No.2663 of 2019

Madurai Siddha Vaidhya Sangam
rep. by its Secretary,
S.Gurunathan
25 A, Jarigaikara Street,
South Marret Street,
Madurai - 625 001.

... Appellant/Petitioner

Vs.

1.The Commissioner,
Hindu Religious & Charitable Endowment Department,
Chennai - 600 034.

2.The Joint Commissioner,
Hindu Religious & Charitable Endowment Department,
No.1, West Chithirai Street,
NTC Building Upstairs, Madurai - 625 001.

3.The Assistant Commissioner,
Hindu Religious & Charitable Endowment Department,
Jawans Building, West Veli Street,
Near Railway Station Junction, Madurai - 625 001.

4.The Joint Commissioner / Executive Officer,
A/m Meenakshi Sundareswarar Temple,
Madurai - 625 001.

...Respondents/Respondents

PRAYER IN WA(MD).335 OF 2019: Appeal filed under Clause 15 of the Letters Patent, to allow the writ appeal by setting aside the order dated 17.12.2018 passed in W.P(MD)No.16392 of 2018 on the file of this Court.

Prayer in WP(MD). 16392/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus by directing the 4th respondent to restore the petitioner sangam as a tenant of the 4th respondent temple, in the building measuring an extent of 1034 sq.ft, at D.No.6, Travellers Bungalow Road, Madurai.



For Appellant : Mr.Rajakarthikeyan
For Respondents : Mr.VR.Shanmuganathan
Spl. Govt. Pleader

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JUDGMENT

(Judgment of the Court was delivered by **K.KALYANASUNDARAM, J.**)

Challenging the order of the learned Single Judge passed in W.P(MD)No.16392 of 2018, dated 17.12.2018, the present writ petition has been filed.

2.The appellant, as the writ petitioner, filed W.P(MD)No.16392 of 2018 for issuance of a Writ of Mandamus directing the fourth respondent to restore the possession of the building bearing Door No.6, Travellers Bungalow Road, Madurai, measuring to an extent of 1034 square feet.

3.The Joint Commissioner, Hindu Religious & Charitable Endowment Department, Madurai issued a show-cause notice under Section 78(2) of the Hindu Religious & Charitable Endowment Department Act, 1959 to show-cause as to why the petitioner should not be evicted from T.S.No.853 and thereafter, an order dated 03.12.2015 was passed holding that the appellant herein is an encroacher and he was directed to vacate the premises within a period of 30 days. Further order under Section 79 of the Act was passed by the Assistant Commissioner, Hindu Religious & Charitable Endowment Department, Madurai on 21.01.2016 directing the appellant to vacate the premises on or before 09.02.2016. The order of the Assistant Commissioner was put to challenge in W.P(MD)No.2631 of 2016. The said writ petition was dismissed on 05.02.2016.

4.Heard Mr.Rajakarthikeyan, learned counsel for the petitioner and Mr.VR.Shanmuganathan, learned Special Government Pleader for the respondents.

5.It is not disputed that against the order passed by the Joint Commissioner, dated 03.12.2015, the appellant preferred an appeal before the Commissioner, Hindu Religious & Charitable Endowment Department, Chennai and the same was dismissed on 15.04.2016. The order of eviction has reached finality as no further challenge was made by the appellant.

6.The present writ petition was filed mainly on the ground that the writ petition in W.P(MD)No.2631 of 2016 came to be dismissed on the misrepresentation made by the official respondents that the society has become defunct. According to the appellant, the society is still functioning and hence, the appellant is entitled for restoration of possession.



7.The learned Single Judge dismissed the writ petition rightly by observing that the eviction order reached finality. It is an undisputed fact that the eviction order passed by the Joint Commissioner, Hindu Religious & Charitable Endowment Department, Madurai was confirmed by the Commissioner, Hindu Religious & Charitable Endowment Department, Chennai. However, the petitioner has not assailed those orders before the competent Court. Hence, we find no merit in this writ appeal. The writ petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CRL SIDE)

// True Copy //

Sub Assistant Registrar (CS)

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To

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+1CC TO MR.RAJA KARTHIKEYAN, Advocate Sr. No.54690

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No.54664

W.A. (MD) No.335 of 2019

and

C.M.P (MD) No.2663 of 2019

15.03.2019

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