



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.04.2019

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WEB COPY

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P.(MD).No.1504 of 2019
and
W.M.P.(MD).Nos.1294 to 1296 of 2019

A.Rengan

... Petitioner

Vs.

1. The Commissioner,
Hindu Religious and Charitable Endowments Department,
No.119, Uthamar Gandhi Salai,
Nungambakam,
Chennai 600 034.
2. The District Collector,
Trichy District,
Trichy.
3. The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Tiruchirapalli Division,
Uthamarkovil Complex,
Pithchandar Kovil,
Trichy District.
4. The Joint Commissioner / Executive Officer,
Sri Ranganathaswamy Temple,
Vellithirumutham Village,
Srirangam Taluk,
Trichy District.

... Respondents

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned encroachment eviction proceedings initiated against the petitioner in M.P.No.63/2016/B4, dated 13.10.2017 and quash the same as illegal and consequently forbear the respondents from evicting the petitioner except following the due process of law.



For R1 to R3 : Mr.V.R.Shanmuganathan
Special Government Pleader
For R4 : Mr.M.Saravanan

O R D E R

(Order of the Court was made by **K.KALYANASUNDARAM, J.**)

Heard Mr.M.Ajmal Khan, learned Senior counsel for Mr.M.Mahaboob Athiff, learned counsel appearing for the petitioner, Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing for the respondents 1 to 3 and Mr.M.Saravanan, learned counsel for the fourth respondent and perused the materials available on record.

2. The order impugned in this writ petition is the notice issued by the Joint Commissioner, H.R. & C.E. Department, under Section 80 (2) of the Tamil Nadu Hindu Religious and Charitable Endowments Act to appear on 06.11.2017 to show cause why the lease, licence of the land, tank, building should not be terminated.

3. It is seen that subsequent to the fire accident in Meenakshiamman Temple, Madurai, the Commissioner, H.R. & C.E. Department issued a Circular for termination of the lease, licence of the tenants in occupation of the building belonging to the H.R. & C.E. Department. In pursuance of the Circular, the eviction orders were issued.

4. When the matter was taken up to the Hon'ble Supreme Court in Civil Appeal Nos.3461 to 3505 of 2019, it has been observed as follows:

"13. Section 77 of the Act, 1959 deals with transfer of lands appurtenant to or adjoining religious institutions prohibited except in special cases. Section 78 deals with encroachment by persons on land or building belonging to charitable or religious institution or endowment and the eviction of encroachers. Section 79 deals with mode of eviction on failure of removal of the encroachment as directed by the Joint Commissioner. Section 79-A deals with encroachment by groups of persons on land belonging to charitable religious institutions and their eviction. Section 79-B deals with penalty for offences in connection with encroachment. Section 79-C deals with recovery of moneys due to religious institutions, as arrears of land revenue. Section 80 deals with eviction of lessees, licensees or mortgagees with possession in certain cases. Section 81 provides for an appeal against Joint Commissioner or the orders of Deputy Commissioner passed



under Section 80. Section 82 provides for payment of Compensation. Section 83 deals with constitution of Tribunal. Section 84 deals with suits against the award. Section 85 provides for protection of action taken under Chapter VII of the Act, 1959.

14. As mentioned above, the controversy, which is the subject matter of these appeals, is governed by the provisions of the Act, 1959. It is not in dispute that the respondents did not resort to the remedies provided to them under the Act against any of the appellants. In other words, it is not in dispute that the action taken by the respondents, which was impugned by the appellants in the writ petitions before the High Court, was not taken under the Act, 1959.

15. It is for this reason, we are inclined to allow these appeals, set aside the impugned order and grant liberty to the respondents to take recourse to the remedies provided to them against the appellants individually in relation to the controversy raised by them in these proceedings.

16. Needless to say, we have not gone into the merits of the claim raised by the appellants whether individually or / and severally. The respondents will, therefore, be at liberty to proceed in the matter in question against the appellants individually strictly in accordance with law uninfluenced by any observations made by this Court. "

5. The Special Leave Civil Appeals were allowed granting liberty to the authorities to evict the tenants by following the provisions of H.R. & C.E. Act. During the pendency of the appeal before the Hon'ble Apex Court, this writ petition was entertained and interim stay was granted.

6. In the matter on hand, challenge is not the order of eviction, but only a show cause notice. Hence, we find no reason to set aside the order impugned in this writ petition. In fine, the writ petition is dismissed. The third respondent shall intimate the petitioner another date for enquiry and pass orders on merits and in accordance with law, after providing ample opportunity to the petitioner. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //



To

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4. The Joint Commissioner / Executive Officer,
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Srirangam Taluk,
Trichy District.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-64461[F] dated
30/04/2019)

+1 CC to M/s.M.SARAVANAN, Advocate (SR-64877[F] dated
02/05/2019)

+1 CC to M/s.SPL GP (SR-65194[F] dated 03/05/2019)

akv

W.P. (MD) .No.1504 of 2019

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