



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 3608 of 2019

WEB COPY

S.V. Visweswaran

... Petitioner

Vs.

1. The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
Office of the H.R.&C.E.,
Mayiladuthurai,
Nagapattinam District.

2. The Executive Officer,
Arulmigu Nageswara Swamy Temple,
Kumbakonam, Thanjavur District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent to consider the petitioner's representation dated 31.10.2018 received on 02.11.2018 and to give an opportunity of personal hearing and to pass orders on merits considering all the documents in respect of the property of the petitioner in T.S.No.567/2 and 567/18, Door No.16/21, South Madapaa Lane, Kumbakonam Town, Thanjavur District within the stipulated time.

For Petitioner : Mr.M.V.Santharaman
For R-1 : Mr.M.Karuppasamy,
Government Advocate.
For R-2 : Mr.Chandrasekar

ORDER

The petitioner is an occupant of the property belonging to the second respondent temple. The second respondent/ Executive Officer has sent a communication dated 14.09.2018 calling upon the petitioner to make a certain payment so as to regularize his occupation. Questioning the same, the petitioner has filed a petition before the first respondent. The petitioner wants this Court to direct the first respondent to dispose of the said representation.

2. I am of the view that this Writ petition has been filed prematurely. The communication of the second respondent indicates
<https://hsr.servecs.ecourts.gov.in/hsr-services/> under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act will be taken. Till date the



petitioner has not received any notice from the authorities in this regard. Therefore, as and when such proceedings are initiated, it is always open to the petitioner to defend them in the manner known to law. There is no need to issue a direction to the first respondent herein. This is because, the representation given by the petitioner herein is not referable to any statutory provision. A Writ of Mandamus is issued, if legal entitlement can be made out. In this case, there is no legal duty on the part of the petitioner and there is no legal entitlement on the part of the first respondent to dispose of the petition mentioned representation.

3. In this view of the matter, this Writ petition stands dismissed. It is made clear that the petitioner's rights have not been adjudicated. The petitioner's rights are left open. As and when the proceedings under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act are taken, it is always open to the petitioner to raise the defences available to him. No costs.

Sd/-

Assistant Registrar (CRL.SIDE)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
Office of the H.R.&C.E.,
Mayiladuthurai,
Nagapattinam District.

2. The Executive Officer,
Arulmigu Nageswara Swamy Temple,
Kumbakonam, Thanjavur District.

+1 CC to M/s.T.R.SUBRAMANIAN, Advocate (SR-60269[F] dated 10/04/2019)

+1 CC to M/s.SPL GP (SR-60602[F] dated 11/04/2019)

PMU

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10.04.2019

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