



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P. (MD) No.5378 of 2019

and

W.M.P.No.4277 of 2019

1. A.Selvaraj

2. A.Nagaraj

... Petitioners

Vs

1. The Joint Commissioner,
Hindu Religious and Charitable,
Endowment Department,
Madurai.

2. The Assistant Commissioner,
Hindu Religious and Charitable,
Endowment Department,
Dindigul.

3. The Executive Officer,
Arulmigu Kalakatheeswarar Temple,
Dindigul.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records pertaining to the impugned order in Miscellaneous Petition No.187/2018 dated 09.02.2019 passed by the first respondent and quash the same as illegal, invalid and against the constitutional safeguards.

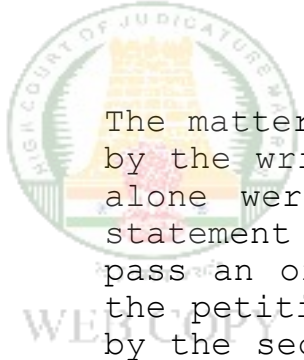
For Petitioners	: Mr.K.Kannan
For R1 & R2	: Mr.M.Karuppasamy Government Advocate
For R3	: Mr.Muthu Geethiyan

ORDER

Heard the learned counsel on either side.

2. The second respondent filed a petition in M.P.No.187 of 2018 dated 09.02.2019 before the Joint Commissioner, Hindu Religious and Charitable Endowment Department, Madurai, under Section 78 of the Hindu Religious and Charitable Endowment Act for evicting the writ petitioners herein.

3. The petitioners received notice in the said proceedings. They entered appearance. They also filed Vakalat on 30.01.2019.



The matter was adjourned to 06.02.2019 for filing counter statement by the writ petitioners herein. On the said date, the petitioners alone were present and their counsel was not present. Counter statement was also not filed. However, the authority chose to pass an order on merits based on the available records by setting the petitioners ex-parte and ultimately allowed the petition filed by the second respondent. Challenging the same, the Writ Petition has been filed.

4. The learned counsel appearing for the respondents pointed out that the order impugned in the writ petition can be very well challenged before the Commissioner, Hindu Religious and Charitable Endowment Department, Chennai, under Section 21 of the Act. He also pointed out that the writ petitioners having taken time to file their counter statement, had deliberately chose to remain ex-parte in order to drag on the proceedings.

5. The learned counsel appearing for the writ petitioners would state that if they are given one more opportunity, they would fully co-operate with the expeditious disposal of the petition. He further states that the petitioners will pay cost directly to the fourth respondent. He also undertakes that they would continue to pay the rent without default to the third respondent for the use and occupation.

6. This Court notices that the order itself was passed only on 09.02.2019 and that the petitioners herein have moved this Court at the earliest point of time. The learned counsel also gives an undertaking that the petitioners would appear promptly and regularly on all hearing dates and that they shall co-operate for expeditious disposal of the matter.

7. I am of the view that in the interest of justice, the petitioners can be given one more opportunity. Therefore, the order impugned in this writ petition is set aside. Accordingly, the Writ Petition is allowed. The matter is remitted to the file of the first respondent to pass orders on merits and in accordance with law. The first respondent shall conclude the proceedings on merits and in accordance with law on or before 31.06.2019. It is made clear that this Court has not pronounced anything on the merits of the matter. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)



To

1. The Joint Commissioner,
Hindu Religious and Charitable,
Endowment Department, Madurai.

2. The Assistant Commissioner,
Hindu Religious and Charitable,
Endowment Department, Dindigul.

3. The Executive Officer,
Arulmigu Kalakatheeswarar Temple,
Dindigul.

+1CC TO MR.M.MUTHUGEETHAYAN, Advocate Sr. No.52414
+1CC TO MR.K.KANNAN, Advocate Sr. No. 52313
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No.52613

W.P. (MD) No.5378 of 2019.

TR (04.04.2019) 3P 7C