



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.06.2019

CORAM:

THE HON'BLE Mr. JUSTICE K.RAVICHANDRABAABU

and

THE HON'BLE Mr. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P. (MD) Nos. 9327 and 9328 of 2018

and

W.M.P. (MD) Nos. 8623 to 8625 of 2018

W.P. (MD) No. 9327 of 2018:

I. David Thomas

... Petitioner

Vs.

The Deputy Commissioner / Executive Officer,
Hindiu Religious and Charitable Endowment Board,
Arulmigu Subramaniaswami Thirukovil,
Thiruparankundram,
Madurai District.

... Respondent

PRAYER: The Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.75/2017/E1, dated 08.02.2018 on the file of the respondent and quash the same as illegal and consequently, forbearing the respondent from entering into the petitioner's school and church situated at Door No.45/1, Sannadhi Street, Old Natham Survey No.196/14A, New Natham Survey No.874/2, an extent of 0.10.12 measuring 25 cents (10900 sq.ft.) in Thiruparankundram Village, presently Thiruparankundram Taluk, Madurai District.

W.P. (MD) No. 9328 of 2018:

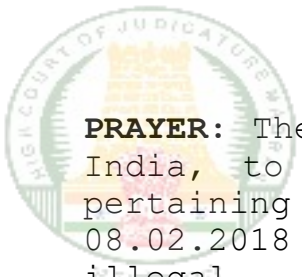
Shalem Nursery and Primary School,
Rep.by its Correspondent,
M.Vedamani,
45/1, Sannathi St,
Thiruparankundram,
Madurai 625 005.

... Petitioner

Vs.

The Deputy Commissioner / Executive Officer,
Hindiu Religious and Charitable Endowment Board,
Arulmigu Subramaniaswami Thirukovil,
Thiruparankundram,
Madurai District.

... Respondent



PRAYER: The Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the impugned order in Na.Ka.No.75/2017/E1, dated 08.02.2018 on the file of the respondent and quash the same as illegal.

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For Petitioners : Mr.T.Lajapathi Roy

For Respondent : Mr.V.R.Shanmuganathan, Spl.G.P.

COMMON ORDER

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

These Writ petitions are filed, challenging the order of the first respondent dated 08.02.2018 calling upon the petitioners to vacate and hand over possession of the subject matter property to the subject matter temple.

2.The main grounds raised by the petitioners before this Court is that the first respondent is not justified in issuing the impugned eviction order, without following the procedure as contemplated under Section 78 of the Hindu Religious and Charitable Endowment Act.

3.Heard the learned counsel for the petitioners and the learned Special Government Pleader for the respondent.

4.It is seen that the impugned order called upon the petitioner to vacate and hand over possession of the subject matter in dispute also by stating that failure to do so, would result in taking action under Sections 78 and 79 of the Hindu Religious and Charitable Endowment Act. Therefore, it is not as though the respondents have resorted to evict the petitioners, without following the procedure contemplated under the Hindu Religious and Charitable Endowment Act.

5.In fact, the learned Special Government Pleader appearing for the respondent submitted before us that subsequent to the issuance of the impugned proceedings, action under Section 78 of the Hindu Religious and Charitable Endowment Act, has been taken against the petitioners, which has resulted in passing an order on 22.04.2019. He further submitted that the petitioners have already challenged the said order before the Commissioner of Hindu Religious and Charitable Endowment by way of filing a statutory appeal and the same is pending. The said fact is not disputed by the learned counsel for the petitioners.

6.When such being the factual position, it is for the petitioners to work out their remedy in the appeal already filed against the order of eviction passed under Section 78 of the Hindu Religious and Charitable Endowment Act. Therefore, without expressing any view on the merits of the contentions raised by both



parties, these Writ petitions are disposed of by granting liberty to the petitioners to pursue the appeal filed under Section 78 of Hindu Religious and Charitable Endowment Act. No costs. Consequently, connected W.M.Ps. are closed.

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Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar (CS)

To

The Deputy Commissioner / Executive Officer,
Hindiu Religious and Charitable Endowment Board,
Arulmigu Subramaniaswami Thirukovil,
Thiruparankundram,
Madurai District.

+2 CC to M/s.T.LAJAPATHI ROY, Advocate SR-69678, SR-69679
+1 CC to SPL GP (SR-69769[F] dated 19/06/2019)

W.P. (MD) Nos. 9327 and 9328 of 2018
18.06.2019

nbj

MK (03.07.2019) 4P 5C