

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Thursday, the Eleventh day of April Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice K.KALYANASUNDARAM
and
The Hon`ble Mrs.Justice R.THARANI

WP(MD) No.8783 of 2019

B.IYYAPPAN

... PETITIONER

Vs

1 THE COMMISSIONER
HINDU RELIGIOUS AND CHARITABLE ENDOWMENT DEPARTMENT,
NUNGAMBAKKAM, CHENNAI-34

2 THE JOINT COMMISSIONER
HINDU RELIGIOUS AND CHARITABLE ENDOWMENT DEPARTMENT,
TIRUNELVELI-2

3 THE EXECUTIVE OFFICER
ARULMIGU PILLAIYAN KATTALAIGAL,
TIRUNELVELI CITY-6

.... RESPONDENTS

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to issue a Writ of Certiorari to call for the records on the file of the 3rd respondent in connection with the impugned order passed by him in his proceedings Nil dated 22.03.2019 (signed on 22.04.2019), received on 1.4.2019 and quash the same as ultravires and illegal.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.G.THALAIMUTHARASU, Advocate for the petitioner and of Mr.VR.SHANMUGANATHAN, Special Government Pleader for R1 & R2 and Mr.R.VELMURUGAN, Advocate for R3, the court made the following order:-

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

This Writ Petition has been filed seeking issuance of a Writ of Certiorari to quash the impugned order passed by the third respondent in proceedings No.Nil, dated 22.3.2019 (signed on 22.4.2019) and received on 1.4.2019, as ultra-vires and illegal.

learned counsel takes notice the third respondent and seeks time to file their counter.

3.Mr.G.Thalaimutharasu, learned counsel for the Petitioner would urge that the third respondent has no authority to pass the impugned order and it is also liable to be set aside, as it was passed in violation of principles of natural justice.

4.The learned counsel for the respondents would submit that the order impugned in this Writ Petition is not a final order and that the Petitioner will not be evicted on the basis of the order. According to the counsel for the respondents, if the Petitioner fails to vacate the property, a petition would be filed before the Joint Commissioner by the Assistant Commissioner, under Section 78 of the Hindu Religious and Charitable Endowment Act and only thereafter, after giving opportunity to the Petitioner, final order would be passed.

5.The submissions of the learned counsel for the respondents are recorded.

6.Post the matter on 23.4.2019, for filing counter.

sd/-
11/04/2019

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE COMMISSIONER
HINDU RELIGIOUS AND CHARITABLE ENDOWMENT DEPARTMENT,
NUNGAMBAKKAM, CHENNAI-34

2 THE JOINT COMMISSIONER
HINDU RELIGIOUS AND CHARITABLE ENDOWMENT DEPARTMENT,
TIRUNELVELI-2

ORDER
IN
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Date :11/04/2019

MS/PN/SAR-1/22.04.2019/2P.3C