



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.11.2019

CORAM:

THE HONOURABLE DR.VINEET KOTHARI,
ACTING CHIEF JUSTICE

AND

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

W.A.[MD].Nos.133 to 140 of 2019

and C.M.P.Nos.1068 to 1075 of 2019

WEB COPY

K.Esakkimuthu	: Appellant/Petitioner in WA (MD) No.133/2019
Sivanu	: Appellant/Petitioner in WA (MD) No.134/2019
R.Srirangam	: Appellant/Petitioner in WA (MD) No.135/2019
S.Ganapathi	: Appellant/Petitioner in WA (MD) No.136/2019
S.Ramakrishnan	: Appellant/Petitioner in WA (MD) No.137/2019
G.Sankar	: Appellant/Petitioner in WA (MD) No.138/2019
D.Rajeswari	: Appellant/Petitioner in WA (MD) No.139/2019
S.M.Raja	: Appellant/Petitioner in WA (MD) No.140/2019

Vs.

- 1.The Commissioner
Hindu Religious and Charitable Endowment,
Uthamar Gandhi salai
Nungambakkam,
Chennai-34.
- 2.The Executive Officer,
Arulmigu Melamuthalamman Thirukovil,
Tenkasi,
Tirunelveli District.
- 3.The Commissioner
Tenkasi Municipality
O/o. the Municipal Corporation
Tenkasi,
Tirunelveli District. : Respondents/Respondents (in all cases)

COMMON PRAYER IN WA(MD)Nos.133 TO 140 OF 2018: These Writ Appeals are filed under Clause 15 of Letters Patent Act against the order of this Court dated 04.06.2018 in W.P.(MD) Nos.6271 to 6278 of 2018.

COMMON PRAYER IN WP(MD)Nos.6271 to 6278 of 2018:

These Writ Petitions are filed under Article 226 of the Constitution of India, praying this Court To pass an order of Writ of Certiorarified Mandamus to call for the records with regard to the Impugned Notice dated 13/03/2018 issued by the 2nd respondent and quash the same and consequently direct the respondents to provide alternative place near the temple with compensation for



the building constructed .

For Appellants : Mr.R.J.Karthick(in all cases)

For Respondents : Mr.A.K.Baskarapandian
Special Government Pleader for R1
(in all cases)

Mr.M.Muthugeethaiyan for R2(in all cases)

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COMMON JUDGMENT

[Judgment of the Court was delivered by
G.R.Swaminathan, J]

The appellants in these writ appeals are lessees under the respective respondent Temples. They were sought to be evicted by the Temple authorities. The Temple authorities had directed the eviction of the appellants herein pursuant to the directions issued by the Commissioner, HR & CE Department, Nungambakkam, Chennai. The proposed eviction was challenged by the appellants herein by filing the instant writ petitions before the learned single Judge. Infact, they were heard along with a number of other writ petitions raising the very same issue and by a common order dated 04.06.2018, all the writ petitions were dismissed. Aggrieved by the same, the appellants are before this Court.

2. It is admitted by the learned counsel on either side that similarly placed litigants, in the meanwhile, moved the Hon'ble Supreme Court and the Hon'ble Supreme Court, vide order dated 08.04.2019, in Civil Appeal Nos. 3461-505 of 2019 etc. batch allowed all the appeals and set aside the orders passed by this Court.

3. In the said order, the Hon'ble Supreme Court has held as under:

"11.In our considered opinion, the issue raised in these appeals is governed by the provisions of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (22 of 1959) (for short "the 1959 Act"). Chapter VII of the 1959 Act deals with the cases of encroachment on the land belonging to religious institutions. This Chapter consists of Sections 77 to 85.

12.Section 77 of the 1959 Act deals with transfer of lands appurtenant to or adjoining religious institutions prohibited except in special cases. Section 78 deals with encroachment by persons and land or building belonging to charitable or religious institutions or endowments 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 institution, as arrears of land revenue.

13. 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 the Tribunal. Section 84 deals with suits against the award. Section 85 provides for protection of action taken under Chapter VII of the 1959 Act.

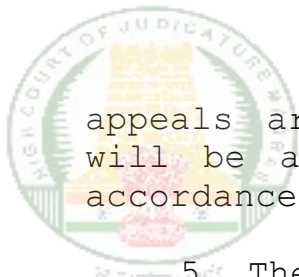
14. As mentioned above, the controversy, which is the subject-matter of these appeals, is governed by the provisions of the 1959 Act. It is not in dispute that the respondents did not resort to the remedies provided to them under the Act against any of the appellants. In other words, it is not in dispute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

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.

17. In view of the foregoing discussion, the appeals succeed and are accordingly allowed. The impugned order is set aside."

<https://hcservices.ecourts.gov.in/hcservices/> 4. In view of the same, the orders impugned in these writ



appeals are set aside. That the Temple authorities, of course, will be at liberty to evict the appellants herein strictly in accordance with the relevant statutory provisions.

5. These writ appeals are allowed in these terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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Sub Assistant Registrar (CS)

RR

To

1.The Commissioner

Hindu Religious and Charitable Endowment,
Uthamar Gandhi salai
Nungambakkam,
Chennai.

2.The Executive Officer,

Arulmigu Melamuthalamman Thirukovil,
Tenkasi,
Tirunelveli District.

3.The Commissioner

Tenkasi Municipality
O/o. the Municipal Corporation
Tenkasi,
Tirunelveli District.

+1 CC to MR.M.MUTHUGEETHAYAN, Advocate (SR-96424[F] dated 06/11/2019)

+1 CC to MR.R.J.KARTHICK, Advocate (SR-96429[F] dated 06/11/2019)

+1 CC to SPL GP (SR-96680[F] dated 07/11/2019)

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and C.M.P.Nos.1068 to 1075 of 2019
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