



WEB COPY

W.A(MD)NO.956 OF 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE R.THARANI

W.A(MD)NO.956 OF 2019

and

C.M.P(MD)No.8605 of 2019

V.Nagarajan

:Appellant/Petitioner

.vs.

1.The Commissioner,
Hindu Religious and Charitable Endowment
Department,
Uthamar Gandhi Salai,
Nungambakkam,
Chennai - 600 034.

2.The District Collector,
Tiruchirappalli District,
Tiruchirappalli.

3.The Assistant Commissioner,
Executive Officer,
Arulmighu Thayumana Swamy Thirukkoil,
Malaikottai,
Tiruchirappalli.

.... Respondents/Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent praying this Court to set aside the order passed by this Court in W.P(MD)No.4498 of 2018, dated 04.06.2018.

Prayer in WP(MD)No. 4498/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records pertaining to the impugned proceedings issued by 3rd respondent in Na.Ka.No.1627/2018/A5 dated 19/02/2018 in respect of the petitioner shop premises bearing No. 21 Nandikovil Street, Trichy City and quash the same.

For Appellant

: Mr.B.Jameel Arasu

For Respondents 1 & 3

: Mr.M.Saravanan

R2

: Mr.A.K.Baskarapandian,

Special Government Pleader



JUDGMENT

[Judgment of the Court was made by **T.S.SIVANANAM, J.**]

Heard Mr.B.Jameel Arasu, learned counsel appearing for the Petitioner and Mr.M.Saravanan, learned counsel, who accepts notice on behalf of the respondent.

2.By consent of either side, the Writ Petition is taken up for final disposal.

3.This Writ Appeal is directed against the order made in W.P (MD)No.4498 of 2018, dated 4.6.2018.

4.Against the impugned order, Writ Appeals were preferred which were dismissed.

5.The Writ Petitioner has filed Special Leave Petition in Civil Appeal Nos.3461 to 3505 of 2019 before the Honourable Supreme Court, which was taken on file in Civil Appeal Nos.3461 to 3505 of 2019 and the Honourable Supreme Court has allowed the appeals by issuing certain directions:

"13. Section 77 of the Act, 1959 deals with transfer of lands appurtenant to or adjoining religious institutions prohibited except in special cases. Section 78 deals with encroachment by persons on land or building belonging to charitable or religious institution or endowment 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 institutions, as arrears of land revenue. 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 Tribunal. Section 84 deals with suits against the award. Section 85 provides for protection of action taken under Chapter VII of the Act, 1959.

14. As mentioned above, the controversy, which is the subject matter of these appeals, is governed by the provisions of the Act, 1959. It is not in dispute that the respondents did not resort to the remedies provided to them 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 Act, 1959.

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. "

6. In the light of the decision of the Honourable Supreme Court aforementioned, this Writ Appeal is also allowed on the same line. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Crl.side)

/ True Copy /

Sub Assistant Registrar(CS-)

To

1. The Commissioner,
Hindu Religious and Charitable Endowment Department,
Uthamar Gandhi Salai,
Nungambakkam, Chennai - 600 034.

2. The District Collector,
Tiruchirappalli District, Tiruchirappalli.

3. The Assistant Commissioner,
Executive Officer,
Arulmighu Thayumana Swamy Thirukkoil,
Malaikottai, Tiruchirappalli.

+1 CC to M/s.M.SARAVANAN, Advocate (SR-88217[F] dated 20/09/2019)

+1 CC to M/s.GP (SR-89019[F] dated 24/09/2019)

+1 CC to M/s.B.JAMEEL ARASU, Advocate(SR-88605[F] dated 23/09/2019)

JUDGMENT MADE IN
W.A(MD)NO.956 OF 2019 and
C.M.P(MD)No.8605 of 2019

20.09.2019

vsn

ES/03-10-2019/3P/7C
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