

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 30.08.2019

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THE HONOURABLE DR.JUSTICE ANITA SUMANTH**W.P(MD)Nos.17702, 17703, 17737 and 17738 of 2019****and****WMP(MD)Nos.14201 OF 2019, 14202 OF 2019,14216 ,14218,14219&14220**
OF 2019

K.Pandian ... Petitioner
(In W.P(MD)No.17702/19)
K.Karuppaiyee Ammal ... Petitioner
(In W.P(MD)No.17703/19)
P.Alagu Asari ..Petitioner
(In W.P(MD)No.17737/19)
N.Pandian ..Petitioner
(In W.P(MD)No.17738/19)

Vs.

1.The District Revenue Officer,
Cholavanthan, Madurai,
Madurai District.

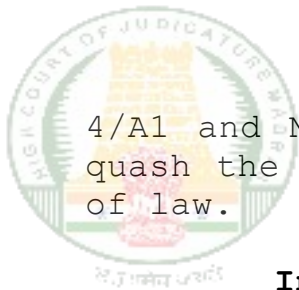
2.The Tahsildar,
Vadipatti Taluk,
Madurai District.

3.The Assistant Commissioner,
Hindu Religious Charitable and Endowments,
Madurai District.

4.The Executive Officer,
Hindu Religious Charitable and Endowments,
Arulmighu Edaganathaswamy Thirukovil,
Thiruvedagam,
Madurai District.

... Respondents

PRAYER in all four writ petitions: Writ Petitions are filed under Article 226 of the Constitution of India praying for the issuance of writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the Joint Commissioner Hindu Religious Charitable Endowments dated 17.07.2017 in M.P.No.10 of 2017 ,M.P.No.5 of 2017 , M.P.No.6 of 2017& M.P.No.9 of 2017 respectively. consequently the impugned Eviction Notice issued by the third respondent in his proceedings Na.Ka.No.586/2014-3/A1,Na.Ka.No.586/2014-2/A1, Na.Ka.No.586/2014-



4/A1 and Na.Ka.No.586/2014-1/A1 respectively dated 10.07.2019 and quash the same as illegal and evict the petitioner in due process of law.

In all writ petitions:

For Petitioners : Mr.S.M.Mohan Gandhi
For R1 to R3 : Mr.V.R.Shanmuganathan
Special Government Pleader
For R4 : Mr.Guhaseela Rupan

C O M M O N O R D E R

These writ petitions have been filed for issuance of a writ of certiorari to quash the order of eviction passed by the Joint Commissioner Hindu Religious Charitable Endowments dated 10.07.2017 in regard to the property at Thiruvudagam Village, Vadipatti Taluk, Madurai District being old Survey No.152/2 and new Survey No.288/26 (in short 'property in question').

2.Since connected W.P(MD)No.17915 of 2019 dismissed by this Court on 16.08.2019 with costs and to be listed today did not figure in the list, a special list was called for and the aforesaid matter is taken up along with the other writ petitions.

3. The connected writ petition was posted solely to confirm as to whether costs of Rs.10,000/- imposed on 16.08.2019 and payable by the petitioner to the High Court Legal Services Authority on or before 16.08.2019 had been remitted. The petitioner has complied with the order in line with memo dated 26.08.2019. This is recorded.

4. As far as the present writ petitions are concerned, learned counsel appearing for the writ petitioners seeks leave of the Court to withdraw these writ petitions. In my view, this is only a ploy adopted by the petitioners to avoid strictures being imposed upon them as expressed in the course of the hearing in the light of non-compliance with the petitioners of the undertaking given by them.

5. The petitioners have challenged the order passed by the Joint Commissioner, Hindu Religious and Charitable and Endowments Board dated 17.07.2017. In my considered view, the petitions are liable to be dismissed for the following reasons:

i) All writ petitions are hit by laches.

ii)The petitioners are admittedly in arrears of rent for the last two years.

iii)The petitioners have undertaken, vide communication dated NIL filed before the fourth respondent i.e the Executive Officer, Arasikudi, that they will vacate the premises in question, within twenty (20) days. The aforesaid



undertaking is admitted and is available on record. At their request, time was granted till 14.08.2019 to vacate the premises in question despite which they continue to squat thereupon.

iv) The petitioners have, even prior to filing the present writ petitions sent a representation to the authorities dated 26.07.2005 praying for patta for the premises in question on the ground of their long occupation of the same. Though only a representation, the authorities have responded as though it were an appeal issuing defect memo dated 27.08.2019.

v) When this batch of writ petitions came up for admission on 13.08.2019, the petitioners sought time to vacate the premises and the matters were listed on 19.08.2019 to enable them to do so.

vi) Suppressing the pendency of these writ petitions, W.P(MD) No.17915 of 2019 was filed which came to be dismissed with costs.

vii) On 19.08.2019, when the matter came up, this Court has recorded the undertaking of learned counsel for the petitioners that the petitioners would vacate the premises in question on or before 25.08.2019. The matter was listed for reporting compliance on 26.08.2019, when the petitioners, changing their tack, stated that they wished to withdraw the writ petitions.

6. A perusal of the narration as above makes it more than abundantly clear to me that the petitioners have been successful in squatting upon the Temple property for the last two years, gratis, but have been employing every irregular method possible to stay in illegal occupation and possession.

7. Mr.V.R.Shanmuganathan states that action for eviction as in the present case was taken against eighteen (18) similarly placed persons, out of whom, fourteen (14) have regularized their occupation by remitting the rental arrears and it is only the four petitioners before me who have neither paid the rent nor vacated the premises.

8. In the light of the above narration, the prayer of the petitioners to withdraw the writ petitions is clearly *malafide* and stands rejected without further demur.

9. The petitioners are directed to vacate the properties in question within a period of three days from today i.e on or before Tuesday the 3rd of September 2019 at 10.30 a.m, failing which, the respondents will positively take possession of the properties in terms of Section 79 of the Hindu Religious and Charitable Endowments Act, 1959.

<https://hcservices.ecourts.gov.in/hcservices/>

10. Though inclined to, since costs have been imposed in W.P (MD) No.17915 of 2019, I refrain from imposing costs yet again.



11. In the result, these writ petitions are dismissed. Consequently, connected miscellaneous petitions are also dismissed.

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Sd/-

Assistant Registrar (P&A)

// True Copy //

Sub Assistant Registrar (CS)

CM

To,

1.The District Revenue Officer,
Cholavanthan, Madurai,
Madurai District.

2.The Tahsildar,
Vadipatti Taluk,
Madurai District.

3.The Assistant Commissioner,
Hindu Religious Charitable and Endowments,
Madurai District.

4.The Executive Officer,
Hindu Religious Charitable and Endowments,
Arulmighu Edaganathaswamy Thirukovil,
Thiruvedagam,
Madurai District.

+4 CC to M/s.C.GUHASEELARUPAN, Advocate (SR-
84680,84682,84681,84683[F] dated 30/08/2019)

+4 CC to M/s.S.M. MOHAN GANDHI, Advocate (SR-85071,85074,85072,85072,[F]
dated 04/09/2019)

W.P (MD) Nos.17702, 17703,
17737 and 17738 of 2019
30.08.2019

KM/ (18.09.2019) 4P 13C