



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.17915 of 2019
and
W.M.P. (MD)No.14365 of 2019

K.Pandi

... Petitioner

-Vs-

- 1.The Commissioner,
The Tamil Nadu Hindu Religious
and Charitable Endowment, (H.R & C.E),
119, Uthamar Gandhi Salai,
Thousand Lights West,
Nungambakkam, Chennai-600 034.
- 2.The Joint Commissioner,
O/o. Joint Commissioner,
The Tamil Nadu Hindu Religious
and Charitable Endowment, (H.R & C.E),
Madurai-1.
- 3.The Assistant Commissioner,
The Tamil Nadu Hindu Religious
and Charitable Endowment, (H.R & C.E),
Madurai-16.
- 4.The District Collector,
Madurai District, Madurai.
- 5.The Revenue Divisional Officer,
Madurai District, Madurai.
- 6.The Tahsildar,
Vadipatti, Madurai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, forbearing the respondents Nos.2 to 5 from evicting the petitioner from his dwelling house in Survey No.152/2 in an extent of 810 Sr.Ft, situated at Thiruvédagam, Vadipatti Taluk, Madurai District till the disposal of Appeal filed by the petitioner dated 09.08.2019 pending before the respondent No.1 filed under Section 81 of the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959 within the time stipulated by this



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For Petitioner : Mr.T.Thirumurugan
For Respondents : Mr.V.R.Shanmuganathan,
Special Government Pleader.

ORDER

The relief sought for in the present Writ Petition is to forbear the respondents 2 to 5 from evicting the writ petitioner from his dwelling house in Survey No.152/2 in an extent of 810 Sr.Ft, situated at Thiruvedagam, Vadipatti Taluk, Madurai District, till the disposal of the Appeal filed by the writ petitioner, dated 09.08.2019 pending before the first respondent filed under Section 81 of the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959 (hereinafter referred to as 'the Act').

2.The writ petitioner states that he is residing in a dwelling house in Survey No.152/2 at Thiruvedagam, Vadipatti Taluk, Madurai District. The land was classified as "Grama Natham" as per revenue record and the writ petitioner constructed a house long back. The writ petitioner states that he is enjoying the house for long years.

3.The writ petitioner further states that there was a temple situated in the land, namely, "Eadaganathar Temple", which is administered by the H.R. & C.E., Department. The temple authorities also have constructed houses and are collecting rent. The writ petitioner states that larger extent of lands are available in that locality.

4.The learned Special Government Pleader appearing on behalf of the respondents opposed the contentions by stating that the very same writ petitioner earlier filed W.P.(MD)No.17702 of 2019, challenging the eviction order passed by the competent authority under Section 78 of the Act and the said Writ Petition was admitted and pending before this Court. When the Hon'ble Judge made an observation that the relief sought for in the Writ Petition cannot be granted and the writ petitioner is liable to be evicted, then the writ petitioner made a submission before this Court that he will file an affidavit, stating time before which he will vacate the premises and hand over the same to the authorities concerned. When the Writ Petition is pending, the writ petitioner has chosen to file the present Writ Petition with a prayer to forbear the respondents 2 to 5 from evicting the writ petitioner from his dwelling house.

5.The very relief sought for in the present Writ Petition is in contradiction with the submission made by the writ petitioner before this Court in W.P.(MD)No.17702 of 2019.



6. When the learned Special Government Pleader made a submission before this Court that the writ petitioner sought for time to file an affidavit for the purpose of vacating the premises in the earlier Writ Petition in W.P.(MD)No.17702 of 2019, the present Writ Petition is directly in violation of the submissions made before this Court in that Writ Petition. Thus, the present Writ Petition cannot be entertained at all.

7. The very conduct of the writ petitioner is to be deprecated. Here is the writ petitioner, who filed the Writ Petition in W.P.(MD)No.17702 of 2019, challenging the order of eviction passed by the competent authority under Section 78 of the Act. When the Writ Petition is pending, he filed another Writ Petition with prayer to forbear the respondents 2 to 5 from evicting the writ petitioner from the same dwelling house. Thus, the writ petitioner has undoubtedly abused the judicial process and made contradictory statement and further violated the undertaking given before this Court in W.P.(MD)No.17702 of 2019.

8. Thus, the factual aspects are not disputed by the writ petitioner and it is pertinent to note that the details regarding the earlier W.P.(MD)No.17702 of 2019 has been suppressed in the present Writ Petition. Thus, the writ petitioner is liable both for misrepresentation as well as for suppression of fact. Further, the writ petitioner has abused the judicial process by filing other Writ Petition with a prayer to forbear the respondents 2 to 5 from evicting the writ petitioner, when the final order passed under Section 78 of the Act, is challenged in W.P.(MD)No.17702 of 2019 and the said Writ Petition is pending for adjudication.

9. Under these circumstances, this Court has no hesitation in coming to the conclusion that the writ petitioner has abused the judicial process by filing more than one Writ Petition and by suppressing the fact. Accordingly, this Writ Petition stands dismissed with cost of Rs.10,000/- (Rupees Ten Thousand Only) and the same is to be paid to the High Court Legal Services Authority by the writ petitioner on or before 26.08.2019 and produce a receipt of payment to the Registrar (Judicial) of High Court, Madurai. No costs. Consequently, connected miscellaneous petition is closed.

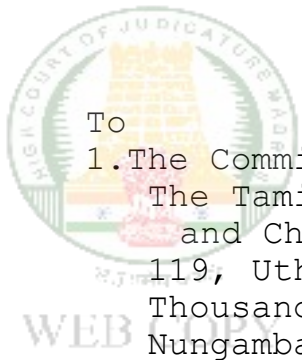
10. The Registry is directed to list the matter for reporting compliance on 27.08.2019.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)



To

1.The Commissioner,
The Tamil Nadu Hindu Religious
and Charitable Endowment, (H.R & C.E),
119, Uthamar Gandhi Salai,
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4.The District Collector,
Madurai District, Madurai.

5.The Revenue Divisional Officer,
Madurai District, Madurai.

6.The Tahsildar,
Vadipatti, Madurai District.

Copy to:

1.The Officer Incharge / Registrar (Judicial)
High Court Legal Services Committee,
Madurai Bench of Madras High Court,
Madurai.

2.The Registrar (Judicial),
Madurai Bench of Madras High Court,
Madurai.

W.P. (MD)No.17915 of 2019
16.08.2019

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