



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **24.10.2019**

CORAM:

THE HONOURABLE MR.JUSTICE **M.GOVINDARAJ**

W.P. (MD)No.19545 of 2019

WEB COPY

P.Ramaiya @ Ramaiyan

: Petitioner

Vs.

- 1.The Commissioner,
Hindu Religious and Charitable Endowment
Administration Department,
Chennai-600 034.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Endowment
Administration Department,
Tirunelveli.
- 3.The Assistant Commissioner,
Hindu Religious and Charitable Endowment
Administration Department,
Nagercoil - 600 002,
Kanyakumari District.
- 4.The Executive Officer,
Represented by
Parvathipuram Udamoottu Dharmam of Arulmighu
Subramania Swamy Temple,
Thiruchendur,
Thoothukudi District.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents 3 and 4 to remove the lock and seal and hand over the possession of the petitioner's house in Door No.295A, Vadacherry, Parvathipuram, K.P.Road, Nagercoil, Kanyakumari District, in the light of the petitioner's representation dated 18.07.2018.

For Petitioner	: Mr.C.Saravanakumar
For Respondents 1to3	: Mr.VR.Shanmuganathan, Special Government Pleader
For Respondent No.4	: Mr.M.Muthugeethaiyan

ORDER

The order passed by the Joint Commissioner under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959,
<https://hcservices.ecourts.gov.in/hcservices/>



against the petitioner was set aside by the first respondent/Commissioner, Hindu Religious and Charitable Endowment Administration Department. Pursuant to that, the petitioner has approached the third and fourth respondents for removing the seal and handing over possession to him. Even though the order was passed on 23.08.2018, the third and fourth respondents, under the pretext of preferring appeal, are prolonging the execution of the order. Aggrieved over the same, the petitioner is before this Court.

2. Heard the submissions made on either side.

3. Admittedly, the appellate authority, namely, the Commissioner of Hindu Religious and Charitable Endowment Administration Department has given a categorical finding that Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, cannot be invoked against the petitioner and the first respondent has set aside the order passed by the Joint Commissioner, dated 30.12.2016. If the order passed by the Joint Commissioner having been set aside in appeal and the order of the appellate authority is not stayed, it is incumbent on the third and fourth respondents to abide themselves to the order of the appellate authority by implementing the same and in the instant case, to hand over possession to the petitioner herein.

4. Therefore, a direction is given to the third and fourth respondents to remove the lock and seal and hand over the possession of the property to the petitioner, within a period of two weeks from the date of receipt of a copy of this order. If the third and fourth respondents get any order of stay, they can work out their remedy thereafter.

5. The Writ Petition is disposed of with the above direction. No costs.

Sd/-

Assistant Registrar (CS III)

// True Copy //

Sub Assistant Registrar(CS)

SML

To

1.The Commissioner,
Hindu Religious and Charitable Endowment
Administration Department,
Chennai-600 034.

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



2.The Joint Commissioner,
Hindu Religious and Charitable Endowment
Administration Department,
Tirunelveli.

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowment
Administration Department,
Nagercoil - 600 002,
Kanyakumari District.

4.The Executive Officer,
Parvathipuram Udamoottu Dharmam of Arulmighu
Subramania Swamy Temple,
Thiruchendur,
Thoothukudi District.

+1 CC to M/s.M.MUTHUGEETHAYAN, Advocate (SR-94560[F] dated
25/10/2019)

+1 CC to M/s.S.R.A.RAMACHANDRAN, Advocate (SR-94813[F] dated
25/10/2019)

Order made in
W.P. (MD) No.19545 of 2019
Dated: 24.10.2019

KK/SAR/07.11.2019/3P-7C/