



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED: 23.09.2019  
CORAM:

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

WEB COPY

W.P (MD)No.20457 of 2019  
and  
WMP (MD)Nos.17085 and 17086 of 2019

R.M.Balasubramanian ... Petitioner  
Vs.

1.The Joint Commissioner,  
Hindu Religious and Charitable Endowment Dept.,  
No.40, Muthusamy Nagar,  
Tiruppathur Road,  
Sivagangai, Sivagangai District.

2.The Executive Officer,  
Hindu Religious and Charitable Endowment Dept.,  
Arulmighu Silambani Chithambara Vinayagar  
Thirukovil,  
Devakottai Town,  
Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus calling for the entire records relating to the impugned notice issued by the 2nd respondent dated 19.03.2019 and quash the same and consequently direct the respondents herein to regularize the petitioner's occupation of the residential property to a total extent of 213.24 sq.m situated at D.No.34, Lakshmipuram West, Devakottai Town, Sivagangai District enabling the petitioner to enjoy the residential portion of the property which is already in occupation of the petitioner adjacent to the said property.

For Petitioner : Mr.A.Saravanan  
For R1 : Mrs.J.Padmavathi Devi  
Special Government Pleader  
For R2 : Mr.C.Guhaseelarupan

**ORDER**

Challenging the impugned notice of the second respondent dated 19.03.2019, directing the petitioner to hand over the encroached portion of the second respondent, this writ petition is filed. A consequential direction to the respondents to regularize the petitioner's occupation of the residential property at D.No.34, Lakshmipuram West, Devakottai Town, Sivagangai District, has also been sought for.

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



2.By consent, the writ petition itself is taken up for final disposal at the stage of admission.

3.The petitioner is an encroacher of the property belonging to the second respondent. The second respondent issued a show cause notice to the petitioner on 07.02.2018, for which, the petitioner has given his reply. Again on 19.03.2019, the second respondent has issued another notice, directing the petitioner to hand over possession. Since the petitioner has not handed over possession, the second respondent submitted a report to the Assistant Commissioner, HR & CE Department, who in turn, on 16.07.2019 forwarded the same to the first respondent herein to take action under Section 78 of the HR & CE Act, 1959.

4.When the matter is subjudice before the first respondent for taking action, the present writ petition to quash the notice dated 19.03.2019 is not maintainable and the petitioner has to appear before the first respondent when a notice of enquiry is given to him and when an order is passed by the first respondent, the petitioner has to challenge the same by filing an appeal before the Commissioner. At this stage, this writ petition, on the basis of apprehension cannot be entertained against the show cause notice.

5.The writ petition is dismissed with the above observation. No costs. Consequently, WMP(MD)Nos.17085 and 17086 of 2019 are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS )

To

The Joint Commissioner,  
Hindu Religious and Charitable Endowment Dept.,  
No.40, Muthusamy Nagar,  
Tiruppathur Road,  
Sivagangai,  
Sivagangai District.

+2 CC to Mr.DR.C. GUHASEELARUPAN, Advocate ( SR-88497[F] dated 23/09/2019 )

+1 CC to Mr.S.MUTHUKUMAR, Advocate ( SR-88936[F] dated 24/09/2019 )

W.P. (MD)No.20457 of 2019  
23.09.2019

MJ