



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:17.12.2019

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P(MD)No.26633 of 2019

and

W.M.P. (MD) .No.22975 of 2019

V.Karuppanan

... Petitioner

Vs.

1.The Joint Commissioner,
Hindu Religious and Charitable Endowments,
Administration Department,
Tiruchirappalli-5.

2.The Assistant Commissioner/
Executive Officer,
Hindu Religious and Charitable Endowments,
Karur.

3.Thiruvaduthurai Adheena Mutt,
Thiruvaduthurai Village,
Through its Power Agent,
Kasi Viswanathan,
S/o.Maharaja Pillai,
B20, N.G.O. B Colony,
Perumalpuram Post,
Tirunelveli.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned notice in Na.Ka.No.3046/2018/A2 dated 18.11.2019 issued by the 2nd respondent and quash the same as premature, arbitrary, illegal, against the Principles of Natural justice and the right of livelihood of the petitioner and consequently, directing the 2nd respondent not to proceed further against the petitioner in respect of the property in T.S.No.617/3 of Municipal Ward, T.S.No.1, T.S.Block No.15 of Karur District to an extent of 312 sq.ft before exhausting the petitioner's remedy by way of revision under section 21 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959.

For Petitioner: Mr.V.Balaji

For R1 & R2 : Mr.VR.Shanmuganathan

Special Government Pleader

For R3 : Mr.Kannan



ORDER

The petitioner has filed this writ petition challenging the impugned order dated 18.11.2019 issued by the second respondent in Na.Ka.No.3046/2018/A2 and quash the same as premature.

2.Heard Mr.V.Balaji, learned counsel appearing for the petitioner, Mr.VR.Shanmuganathan, learned Special Government Pleader and Mr.Kannan, learned counsel appearing for the third respondent.

3.According to the petitioner, he is in possession of 312 sq.ft., of land by way of registered lease deed, dated 28.02.1989, executed by one Gulam Askar Khan. From the date of execution of lease deed, the petitioner is in possession and enjoyment of the same. While so, the third respondent initiated the proceedings under Section 79 of the Tamil Nadu Hindu Religious and Charitable Endowment Act, before the first respondent herein in M.P.No.3 of 2013. Though the petitioner has appeared and contested the proceedings by filing his counter objections disputing the title of the third respondent, the said petition was allowed, directing the petitioner to vacate the premises. Against the said order dated 09.09.2019, the petitioner has filed revision in R.P.No.335 of 2019 before the first respondent/Commissioner, HR&CE, and the same is pending. While so, the present impugned notice was issued by the second respondent in Na.Ka.No.346/2018/A2 dated 18.11.2019 directing the petitioner to vacate and hand over the premises, immediately on or before 18.12.2019. The said notice is challenged by the petitioner in this writ petition stating that the same is prematured. Even before the lapse of the period for preferring revision before the Commissioner, HR&CE, the impugned notice is mechanically issued by the second respondent, without application of mind.

4.The present impugned notice itself is issued only pursuant to the order passed by the third respondent, which is now under challenge in the revision. Therefore, the revision itself may be taken up for hearing in R.P.No.335 of 2019 and confirm the rights of the petitioner and that will give a quietus to the issue.

5.It is submitted by the learned Special Government Pleader that the next hearing date is fixed on 06.01.2020.

6.In view of the above, this Court directs the Commissioner, HR&CE, to dispose of R.P.No.335 of 2019, after issuing notice to the parties concerned and hear them on merits, after affording an opportunity of personal hearing and pass appropriate orders in accordance with law, within a period of four weeks from the date



of receipt of a copy of this order and further directs the petitioner to appear before the Commissioner, HR&CE, on the said date of hearing in person. This order cannot be used as a precedent for any other person, who may move this Court in this regard. Till such the order is passed by the Commissioner, HR&CE, in R.P.No.335 of 2019, the possession of the petitioner should not be disturbed.

7.With the above direction, this Writ Petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (RECORDS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Ns
To:

1.The Joint Commissioner,
Hindu Religious and Charitable Endowments,
Administration Department,
Tiruchirappalli-5.

2.The Assistant Commissioner/
Executive Officer,
Hindu Religious and Charitable Endowments,
Karur.

+1 CC to MR.V.KANNAN, Advocate (SR-105658[F] dated 18/12/2019)

+1 CC to MR.V.BALAJI, Advocate (SR-105729[F] dated 18/12/2019)

+1 CC to SPL.GP (SR-105984[F] dated 19/12/2019)

W.P(MD)No.26633 of 2019

and

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17.12.2019

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