

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.02.2020

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THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.Nos.4505, 4508, 4510 and 4513 of 2020

and

W.M.P.Nos.5347, 5350, 5355 and 5359 of 2020

N.Gunasekaran	.. Petitioner in W.P.No.4505 of 2020
T.Ravi	.. Petitioner in W.P.No.4508 of 2020
D.Manivannan	.. Petitioner in W.P.No.4510 of 2020
S.Murugesan	.. Petitioner in W.P.No.4513 of 2020

..Vs..

1. The Commissioner,
Hindu Religious and Charitable
Endowment Department,
Chennai -600 034.
2. The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
Villupuram District.
3. The Assistant Commissioner,
Hindu Religious and Charitable
Endowment Department,
Cuddalore District.
4. The Executive Officer,
Arulmigu Virurdhagireeswarar Temple,
Vriddhachalam Town,
Cuddalore District - 606 001.

.. Respondents in both W.Ps

Prayer in W.P.No.4505 of 2020:

Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the respondents not to interfere with the possession of the petitioner's Shop in S.No.263/1A4 of an extent of 180 Sq.ft, out of 17.51 Acre, bounded on the East to Sannathi Street, West to Gunasekaran land in DCB, North to Santhanakrishnan land in DCB and south to Temple Vehicle place, pursuant to the order of the

2nd respondent dated 11.12.2019 in Se.Mu.Na.Ka.7011/2018/E2 (signed on 22.01.2020 and served on 27.01.2020) till disposal of the appeal dated 14.02.2020, pending before the 1st respondent.

Prayer in W.P.No.4508 of 2020:

Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the respondents not to interfere with the possession of the petitioner's Shop in S.No.263/1A4 of an extent of 180 Sq.ft, out of 17.51 Acre, bounded on the East to Thiagarajan land in DCB, West to Santhanakrishnan land in DCB and North to Temple Vehicle parking way land and south to Temple Car Mandapam, pursuant to the order of the 2nd respondent dated 11.12.2019 in Se.Mu.Na.Ka.7601/2018/E2 (signed on 23.01.2020 and served on 27.01.2020) till disposal of the appeal dated 14.02.2020, pending before the 1st respondent.

Prayer in W.P.No.4510 of 2020: Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the respondents not to interfere with the possession of the petitioner's Shop in S.No.263/1A4 of an extent of 210 Sq.ft, out of 17.51 Acre, bounded on the East to Sannathi Street, West to Manikandan Land in DCB, North to Balakrishnan land in in DCB and south to Thandavarayan Land in DCB, pursuant to the order of the 2nd respondent dated 11.12.2019 in Se.Mu.Na.Ka.7616/2018/E2 (signed on 22.01.2020 and served on 27.01.2020) till disposal of the appeal dated 14.02.2020, pending before the 1st respondent.

Prayer in W.P.No.4513 of 2020: Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the respondents not to interfere with the possession of the petitioner's Shop in S.No.263/1A4 of an extent of 180 Sq.ft, out of 17.51 Acre, bounded on the East to Santhanakrishnan land in DCB, West to Padmavathi land in DCB, North to temple Vehicle land and South to Temple Car Mandabam, pursuant to the order of the 2nd respondent dated 11.12.2019 in Se.Mu.Na.Ka.8809/2018/A2 (signed on 23.01.2020 and served on 27.01.2020) till disposal of the appeal dated 14.02.2020, pending before the 1st respondent.

For Petitioners
in both W.Ps

: Mrs.A.L.Ganthimathi

For Respondents
in both W.Ps

: Mr.M.Karthikeyan
Special Government Pleader

COMMON ORDER

The writ petitions have been filed in the nature of mandamus seeking a direction against the respondents from interfering with the possession of the shops of the petitioners pursuant to the order of the 2nd respondent namely the Joint Commissioner, HR & CE Department, Villupuram District dated 11.12.2019 pending disposal of the appeal by the 1st respondent namely the Commissioner, HR & CE Department, Chennai - 600 034.

2. The petitioners claimed to be the lessees of the 4th respondent temple namely Arulmigu Virurdhagireeswarar Temple at Vriddhachalam Town, Cuddalore District. They have put up shops by tin sheet. It is claimed that they are in continuous occupation. However, it is seen that the shops of the petitioners are directly blocking the temple Car/Chariots. The 2nd respondent pursuant to the proceedings passed the impugned order, directed the petitioners to vacate the premises within 30 days from the date of the order. Hence the petitioners have filed an appeal before the 1st respondent/Commissioner, HR & CE Department, Chennai. It is claimed that the appeals are pending. Since no protection was given to the petitioners, the respondents are trying to enforce the order of the 2nd respondent.

3. My attention is drawn to the fact that in an earlier writ petitions in W.P.No.15557 of 2019 batch wherein similar protection had been granted to other shop owners in the same area. Consequently to maintain consistency interim protection is granted from taking coercive action pursuant to the order of the 2nd respondent, only subject to continuous payment of rent.

4. It is also made clear that the petitioners should not block ingress and egress of the temple Chariot and should maintain the place in clean and hygienic manner. It is made clear that this order of interim protection will be effective until the appeals are pending before the 1st respondent/Commissioner, HR & CE Department, Chennai. It is also made clear that if the Commissioner passes an order of eviction and confirms the order of the Joint Commissioner then this order of interim protection will stand automatically vacated. The petitioner cannot claim further protection as a right if they move any further appeal/representation before any other authority.

5. The Commissioner, HR & CE Department, Chennai is directed to conduct the appeal practically on a day to day basis and if adjournments are sought, not more than three working days can be granted and not more than two adjournments can be granted for the same reasons. The Commissioner should devote his attention

to dispose of the appeal since it is complained that the shops are blocking the pathway of the temple Chariot / Cars and also causing eminent danger owing to electricity wires drawn over the said place.

6. The 1st respondent/Commissioner, HR & CE Department, Chennai may hear the parties by following the Principle of Natural Justice and dispose of the appeals on or before 31.03.2020.

7. With the above observation, the writ petitions are disposed of. Consequently, connected Miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner,
Hindu Religious and Charitable
Endowment Department, Chennai - 600 034.
2. The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department, Villupuram District.
3. The Assistant Commissioner,
Hindu Religious and Charitable
Endowment Department, Cuddalore District.
4. The Executive Officer,
Arulmigu Virurdhagireeswarar Temple,
Vriddhachalam Town, Cuddalore District - 606 001.

+4cc to Mrs.A.L.Ganthimathi, Advocate, S.R.No.17362
+1cc to the Government Pleader, S.R.No.17399

W.P.Nos.4505, 4508, 4510 and 4513 of 2020
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SPD(CO)
CS/09/03/2020