



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.07.2020

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No.4109 of 2020 and

W.M.P. (MD) Nos.3472 & 3473 of 2020

K.Ganesan

... Petitioner

Vs.

1. The Joint Commissioner,
Hindu Religious Charitable and Endowments,
Trichy District.
2. The Assistant Commissioner/Executive Officer,
Hindu Religious Charitable and Endowments,
Arulmighu Jambukeshwarar Akilandeshwari Thirukovil,
Thiruvanaikaval,
Trichy District.

... Respondent

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the first respondent in M.P.No.18 of 2019 dated 28.02.2019 and quash the same as illegal and consequently directing the respondents not to evict the petitioner from the house at Kaduvatti Nandhanam, 5th Prakaram, Thiruvanaikaval, Thiruvarengam, Trichy District, until the due process of law.

For Petitioner	: M/s.Mohan Gandhi
For R-1	: Mr.V.R.Shanmuganathan, Special Government Pleader.
For R-2	: Mr.Anwar, for Mr.T.Antony Arul Raj

O R D E R

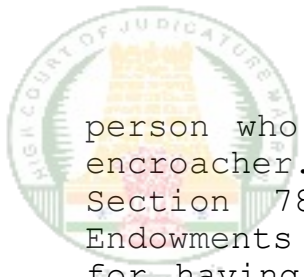
The petitioner challenges the impugned order passed by the first respondent directing his eviction from the petition mentioned premises.

2.Heard the learned counsel on either side.

3. The petitioner's counsel states that his father-in-law Thiru.Ondimuthu was a temple employee and he retired in the year 2001 and that after vacating the quarters allotted to him, they have put up a hut in the adjacent site. The petitioner had pleaded certain domestic reasons in the representation.

4. The petitioner's counsel would contend that the respondents erred in treating him as an encroacher.

5. I am not persuaded by the aforesaid submissions of the learned counsel appearing for the petitioner. As rightly contended by the learned Standing counsel appearing for the second respondent temple as well as the learned Special Government Pleader appearing for the first respondent, a person who overstays the lease and a



person who is not having a subsisting lease will be treated as an encroacher. This is in view of the statutory definition found in Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act. Therefore, the first respondent cannot be faulted for having treated the petitioner as an encroacher and passed the impugned order. As already pointed out by the learned counsel appearing for the respondents, even though the order was passed as early as in the year 2019, this writ petition came to be filed one year later.

6. I do not find any ground to interfere with the impugned order. It is sustained. However taking note of the current pandemic times and the petitioner's counsel's submission that the petitioner may be given some reasonable time to vacate the petition mentioned premises, I am of the view that even though the petitioner has no legal right as such, the petitioner can be allowed to continue till the end of this year. I make it clear that the petitioner shall hand over the possession to the second respondent by the end of this year. If not, the second respondent will be at liberty to enforce the impugned order passed by the first respondent.

7. With this direction, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Deputy Registrar (A/C's)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pmu

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

1. The Joint Commissioner,
Hindu Religious Charitable and Endowments,
Trichy District.
2. The Assistant Commissioner/Executive Officer,
Hindu Religious Charitable and Endowments,
Arulmighu Jambukeshwarar Akilandeshwari Thirukovil,
Thiruvanaikaval, Trichy District.

W.P. (MD)No.4109 of 2020
20.07.2020