



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.08.2020

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)Nos.9118 and 9120 of 2020

and

W.M.P. (MD)Nos.8343 and 8345 of 2020

WEB COPY

P.Sathappan ... Petitioner in W.P.(MD)No.9118 of 2020

B.Maheswari ... Petitioner in W.P.(MD)No.9120 of 2020

Vs.

The Executive Officer,
Arulmigu Neelakanda Pillaiyar Thirukovil,
Yenthal,
Peravoorani Nagar and Taluk,
Thanjavur District.
W.Ps

... Respondent in both

Common Prayer: Writ petitions are filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned notice dated 22.07.2020 passed by the respondent and quash the same as illegal and may deem fit and proper in the circumstances of the case.

(in both W.Ps)

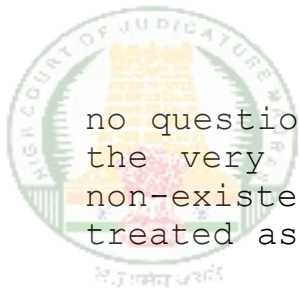
For Petitioner	: Mr.B.Anandan
For Respondent	: Mr.Kumaraguru

* * *

C O M M O N O R D E R

Heard the learned counsel on either side. With the consent of the learned counsel on either side, this writ petitions are taken up for final disposal at the admission stage itself.

2.The petitioner challenges the notice dated 22.07.2020 issued by the respondent herein. It appears that the petitioner is running a flower shop in Survey No.138/6 at Peravoorani. The property admittedly belongs to the respondent. The petitioner is not having any subsisting lease. Therefore, in terms of Section 78 of Tamil Nadu Hindu and Charitable Endowments Act, the petitioner has to be treated as an encroacher. The petitioner's counsel submitted that the reasons set out in the impugned notice are incorrect on the very face of it. The notice reads that since there is congestion in the temple, the petitioner has to be vacated. The petitioner's counsel points out that since we are now in pandemic times and the temples have been closed, there is



no question of there being any congestion. His contention is that the very foundational reason set out in the impugned notice is non-existent. His further contention is that even if he is treated as statutory encroacher, still he is entitled to notice.

3. Before, I could consider the petitioner's contention, the learned standing counsel appearing for the respondent brought to my notice that the writ petition is based on a cause of action that no longer obtains. The notice challenged is dated 22.07.2020. He points out that on 07.08.2020, the respondent has issued notice under Section 78 of the Tamil Nadu Hindu and Charitable Endowments Act. From this, I can gather that the respondent intends to follow due process of law. Therefore, the petitioner need not have any apprehension of sudden or illegal eviction.

4. Recording the submission of the learned standing counsel that they will follow due process of law, the writ petitions are disposed of. I make it clear that I have not gone into the merits of the matter. The defences and contentions of the petitioners are left entirely open. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CRL SIDE)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

ias/dss

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.

+2 CC to M/s.V.S. KUMARAGURU, Advocate (SR-14065 &14066[F] dated 14/08/2020)

W.P.(MD)Nos.9118 and 9120 of 2020
13.08.2020

NS(CO)

TR(20.08.2020) 2P 3C