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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.08.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)Nos.9237 & 9239 of 2020

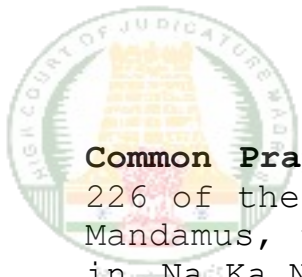
and

W.M.P (MD) .Nos. 8420 & 8422 of 2020

- 1.Shalem Ministries Trust
Represented by its Managing Trustee
Dr.M.Vedamani ... Petitioner in W.P.No.9237 of 2020
- 2.I.David Thomas ... Petitioner in W.P.No.9239 of 2020

Vs.

- 1.The Additional Chief Secretary to Government
Tourism, Culture and Religious Endowments Department,
Secretariat,
Fort St.George, Chennai 600 009.
- 2.The Commissioner,
Hindu Religious and Charitable Endowments Department,
119, Uthamar Gandhi Road,
Nungambakkam, Chennai 34.
- 3.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Ellis Nagar, Madurai 625 016.
- 4.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Ellis Nagar, Madurai 625 016.
- 5.Arulmigu Subramaniaswami Thirukovil
Represented by its Deputy Commissioner /
Executive Officer,
Hindu Religious and Charitable Endowments Board,
Thiruparankundram,
Madurai District. ... Respondents in both petitions



Common Prayer: These Writ petitions have been filed under Article 226 of the Constitution of India, to issue a Writ of Ceriorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.870/2018-1-A1, dated 27.07.2020 on the file of the respondent No.4 and quash the same as illegal and consequently directing the respondent nos.2 to 5 to keep further proceedings in abeyance until the logical end of the review application filed by the petitioner before the respondent no.1.

(In both petitions)

For Petitioners	: Mr.T.Lajapathi Roy
For R1 to R4	: Mr.V.R.Shanmuganathan Special Government Pleader
For R5	: Mr.S.Manohar

C O M M O N O R D E R

Heard the learned counsel on either side.

2.The petitioners had suffered orders of eviction under Section 78 of the Hindu Religious and Charitable Endowment Act, 1959. Questioning the same, the petitioners filed revisions before the Commissioner, Hindu Religious and Charitable Endowments Department, Chennai. The said revisions were also dismissed on 21.03.2020. The petitioners have since moved the Government by way of reviews under Section 114 of the Hindu Religious and Charitable Endowment Act, 1959. When the reviews are pending before the Government, the eviction orders are sought to be enforced. The enforcement notice reads that the petitioners are to be evicted tomorrow. That is why the learned counsel for the petitioners sought a lunch motion and I granted the same.

3.I am of the view that when the statutory remedy available to the affected parties is yet to be finally exhausted, it may not be a fair or reasonable to short circuit the same by rendering it infructious. If the eviction orders are enforced, nothing will remain for adjudication in the review petitions. Therefore, I am of the view that till the review petitions are disposed of, the enforcement proceedings that are impugned in the writ petitions are to be put on hold and kept abeyance. At the same time, to balance the rights of both parties, the reviewing authority namely the Government, first respondent is directed to dispose of the review petitions on merits and in accordance with law within a period of 12 weeks from the date of receipt of a copy of this order. I make it clear that I have not gone into the merits of the matters.



4. These writ petitions are disposed of in the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS)

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/ /2020

Sub Assistant Registrar(CS)

msa

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 Additional Chief Secretary to Government
Tourism, Culture and Religious Endowments Department
Secretariat, Fort St. George, Chennai 600 009

2. The Commissioner
Hindu Religious and Charitable Endowments Department
119, Uthamar Gandhi Road, Nungambakkam, Chennai 34

3. The Joint Commissioner
Hindu Religious and Charitable Endowments Department
Ellis Nagar, Madurai 625 016

4. The Assistant Commissioner
Hindu Religious and Charitable Endowments Department
Ellis Nagar, Madurai 625 016

copy to

The Special Government Pleader,
Madurai Bench of Madras High Court, Madurai.

+2 CC to M/s.S. MANOHAR, Advocate (SR-13938[F] dated 13/08/2020)

+2 CC to M/s.T. LAJAPATHI ROY, Advocate (SR-14031 & 14032[F]

W.P.(MD)Nos.9237 & 9239 of 2020
and W.M.P(MD).Nos. 8420 & 8422 of 2020
12.08.2020

sr(CO)

TR(18.08.2020) 3P 10C