



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **19.08.2020**
CORAM

THE HON'BLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

W.P. (MD) No.9575 of 2020
and
W.M.P. (MD) Nos.8631 and 8632 of 2020
(Through Video conferencing)

Madurai Veeran

...Petitioner

-Vs-

1.The Commissioner

Hindu Religious and Charitable
Endowments Department
119, Uthamar Gandhi Salai
Thousand lights west
Nungambakkam, Chennai.

2.The Joint Commissioner

Hindu Religious and Charitable
Endowments Department
Madurai.

3.The Assistant Commissioner

Hindu Religious and Charitable
Endowments Department
Madurai.

4.The Assistant Commissioner / Executive Officer

Arulmigu Koodalalagar Temple
Madurai.

5.The Inspector of Police

Thideer Nagar Police Station, Madurai. ...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.2456/2015-4.Aa1 dated 27.07.2020 issued by the respondent No.3 and quash the same as illegal, consequently forbearing the respondents, their subordinates, servants, men from disturbing the petitioner's possession in the shop No.1A, Perumal Theppakulam, East Zone, Town Hall Road, Madurai-01 and pass any further orders.



For Petitioner : Mr.S.M.A.Jinnah

For Respondents : Mr.K.P.Narayanakumar,
Spl. Govt. Pleader for R1 to R3 & R5

Mr.S.Manohar,
Standing Counsel for R4

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ORDER

[Order of the Court was made by **M. SATHYANARAYANAN, J.,**]

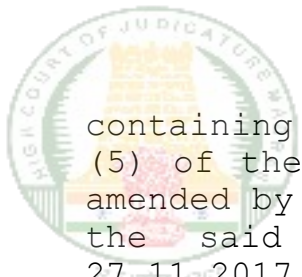
The petitioner is a sub-licensee under one Mr.R.Pavunraj and in the light of the report of the fourth respondent, the second respondent has passed an order dated 12.11.2016 in Na.Ka.No.7148/2015/E1 under Section 80 of Hindu Religious and Charitable Endowments Act, 1959 and after elaborately gone into the facts and circumstances, has ordered the eviction in respect of shop No.1A, having measurement of 103 sq. ft., in Survey No.195, Ward No.5, Perumal Theppakulam, East Zone, Town Hall Road, Marudai - 01. Admittedly, the petitioner did not make further challenge by filing a revision before the first respondent and therefore, it has become final.

2. The third respondent in compliance of the order had issued proceedings/order, dated 27.11.2017 in Na.Ka.No.2456/2015/Aa1, followed by yet another proceedings dated 27.07.2020 in Na.Ka.No.2456/2015-4.Aa1, and the said proceedings/order is put to challenge in this writ petition.

3. The learned counsel appearing for the petitioner would submit that the petitioner is running a Canteen and it is the sole source of his livelihood and also pointed out that selective eviction proceedings have been taken against only some of them, though there are very many persons, who are similarly placed, continued to occupy the place belonging to the fourth respondent temple and had put up some permanent structure and carrying on their avocation and taking into consideration the present facts and circumstances, especially, the difficulty faced by a common man in view of COVID-19 pandemic virus, prays for appropriate orders/protection.

4. Mr.K.P.Narayana Kumar, learned Special Government Pleader accepts notice on behalf of respondents 1 to 3 and 5 and Mr.S.Manohar, learned Standing Counsel accepts notice on behalf of respondent No.4.

5. The learned Standing Counsel appearing for the fourth respondent has drawn the attention of this Court to the proceedings/order of the second respondent dated 12.11.2016 and would submit that on a thoughtful and elaborate consideration of the facts and circumstances, the second respondent has passed an order



containing 13 pages and ordered eviction in the light of Section 81 (5) of the Hindu Religious and Charitable Endowments Act, 1959, as amended by Act 39 of 1996 and the third respondent, in compliance of the said order, had passed consequential proceedings dated 27.11.2017 and 27.07.2020 and despite a lapse of nearly three years and add, the writ petitioner did not care to find alternate accommodation for the purpose of relocating the shop and since due process of law has been followed, prays for dismissal of this writ petition with costs.

6. This Court has carefully considered the rival submissions and also perused the materials placed on record.

7. The second respondent in exercise of powers has passed the order of eviction dated 12.11.2016 and in compliance of the same, the third respondent had issued proceedings dated 27.11.2017 and 27.07.2020 and the latest proceeding dated 27.07.2020 alone is the subject matter of challenge in this writ petition. Admittedly, the petitioner is a sub-licensee and that apart, he did not make a challenge to the order dated 12.11.2016, passed by the second respondent. Even for the sake of arguments, an appeal has been preferred challenging the order of second respondent before the first respondent and in the absence of any interim order, it is always open to the concerned official respondents to proceed further and cause eviction. It is also a well settled position of law that mere pendency of any appeal or revision would not operate as stay of the impugned proceedings, unless specific interim order is granted and in the case on hand, it is not so.

8. In the considered opinion of this Court, the official respondents are following due process of law and started evicting the persons like the petitioner. It is also to be noted, at this juncture, that the main licensees were permitted to carry on their avocation only by push-carts, whereas they were put up some permanent structure and thereby, affected the beauty of the Arulmigu Koodalalagar Temple Tank (Theppakulam).

9. In the light of the above facts and circumstances, no grounds have been made out warranting interference with the impugned order/proceedings of the third respondent and this Court finds no merit in this writ petition.

10. In the result, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Deputy Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



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 Commissioner
Hindu Religious and Charitable
Endowments Department
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- 5.The Inspector of Police
Thideer Nagar Police Station, Madurai.

+1 CC to M/s.S. MANOHAR, Advocate (SR-14468[F] dated 20/08/2020)
+1 CC to M/s.Special Govt.Pleader (SR-14535[F] dated 20/08/2020)

Order made in
W.P. (MD) No. 9575 of 2020
and W.M.P. (MD) Nos. 8631 and 8632 of 2020
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vsm
SDS (02.09.2020) 4P-8C