



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.08.2020

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P(MD)No.9611 of 2020

and

W.M.P(MD)Nos.8653 & 8655 of 2020

Subramanian

... 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 : Petition 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 in Na.Ka.No.2643/2015-4.Aa1, dated 27.07.2020 issued by the third respondent and quash the same as illegal and consequently, forbear the respondents, their subordinates, servants and men, from disturbing the petitioner's possession in the shop No.8, Perumal Theppakulam, East Zone, Town Hall Road, Madurai - 1.

For Petitioner : Mr.S.Subramanian

For Respondents : Mr.K.P.Narayanakumar
Special Government Pleader for R.1 to R.3
& R.5
Mr.S.Manohar for R.4

* * * * *



ORDER

(Order of the Court was made by **M. SATHYANARAYANAN, J.**)

The petitioner was granted licence by the fourth respondent temple in a vacant plot admeasuring 126 sq. ft., for running the business in a pushcart and without permission, he has put up a semi-permanent structure and that apart, he also encroached and was in occupation of 155 sq. ft. The second respondent, on the basis of the representation submitted by the third respondent, had initiated action and passed a detailed order, vide Na.Ka.No.7503/2015/E1, dated 15.12.2015, in and by which, he directed the third respondent to initiate appropriate action under Section 81(5) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, as amended by Act 39 of 1996, with the help of police and hand over the possession to the fourth respondent.

2. The petitioner and two others filed Appeal Petitions in A.P.Nos.39 to 41 of 2016/D2 before the first respondent, who, vide common order dated 21.03.2017, had dismissed all the appeals.

3. It is represented by the learned Counsel for the petitioner that the petitioner challenging the dismissal of the appeal in A.P.No.39 of 2016/D2, has filed a revision before the Secretary to Government, Government of Tamil Nadu, Tourism, Culture and Religious Endowments Department, only day before yesterday (18.08.2020) and however, there is no material placed as to the filing of the said revision as well as the entertainment of the same. The third respondent, as a consequence of the order passed by the second respondent, dated 12.11.2016, has issued the impugned proceedings dated 27.07.2020 and making a challenge to the same, the present writ petition is filed.

4. Learned Counsel for the petitioner would submit that the running of the said shop is the sole source of livelihood and he is remitting the licence amount regularly and therefore, this court may take into consideration the said aspect and grant him appropriate remedy.

5. Learned Counsel appearing for the fourth respondent would submit that though the licence was granted to have a pushcart, admittedly, a semi-permanent structure has been put up and action has been taken strictly in accordance with law and eviction of the petitioner has also been done yesterday (19.08.2020) and therefore, nothing remains for further adjudication in this writ petition.

6. The learned Counsel for the fourth respondent also added that only the consequential order of the third respondent alone has been put to challenge and on that ground also, this writ petition is not maintainable.



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

8. A perusal of the order/proceedings of the second respondent, dated 12.11.2016, would disclose that all the aspects have been taken into consideration and gone into by the second respondent and thereafter, he passed a detailed order, ordering eviction of the petitioner and the petitioner made a unsuccessful challenge to the said order in the form of Appeal Petition in A.P.No.39 of 2016/D2, before the first respondent and it was also dismissed along with two other Appeal Petitions in A.P.Nos.40 and 41 of 2016/D2, filed by R.S.Babuji and O.K.Gunasekaran respectively, vide common order dated 21.03.2017.

9. It is the submission of the learned Counsel for the petitioner that challenging the dismissal of A.P.No.39 of 2016/D2, a revision has been preferred before the Government.

10. As already pointed out, no material has been placed as to the filing of the said revision and that apart, it is also not made known as to the entertainment of the said revision. The fact remains, as on date, that there is no legal impediment or interim orders of restraint forbearing the respondents from evicting the petitioner and other licensees who are similarly placed.

11. It is also brought to the knowledge of this Court that the eviction of the petitioner has also been carried out yesterday (19.08.2020).

12. This Court, on a thorough consideration of the materials placed on record and appreciation of the arguments advanced by the respective learned Counsel for the parties, is of the considered view that there is no merit in this writ petition and accordingly, this writ petition deserves dismissal.

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

Sd/-

Assistant Registrar ()

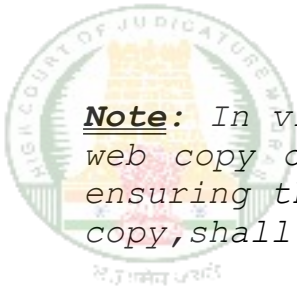
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Sub Assistant Registrar(CS)

RSB

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To

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+1 CC to M/s.GP (SR-14659[F] dated 21/08/2020)

W.P. (MD)No.9611 of 2020

and

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SPU (07.09.2020) 4P 7C