



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.10.2020

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THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)Nos.14313 and 14315 of 2020

and

W.M.P. (MD)Nos.11969 and 11971 of 2020

WEB COPY

P.N.Mohamed Atham : Petitioner in W.P.(MD)No.14313 of 2020
M.Syed Ibrahim : Petitioner in W.P.(MD)No.14315 of 2020

Vs.

1.The Commissioner,
Tamil Nadu Hindu Religious and
Charitable Endowments Department,
Nungambakkam, Chennai.

2.The Joint Commissioner,
Tamil Nadu Hindu Religious and
Charitable Endowments Department,
Ellish Nagar, Madurai.

3.The Joint Commissioner / Executive Officer,
Arulmigu Meenakshi Sundareswarar Temple,
Madurai.

4.The Assistant Commissioner,
Tamil Nadu Hindu Religious and
Charitable Endowments Department,
Madurai.

: Respondents in both W.Ps.

PRAYER in W.P.(MD)No.14313 of 2020:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, to call for the records of the 3rd respondent, dated 18.09.2020 in proceedings Na.Ka.No.5107/2018/E2-1 and quash the same as arbitrary, ultravires and contrary to the order passed in Suomotu W.P.No.7413 of 2020 and consequently, to direct the 3rd respondent to stop the proceedings of eviction in respect of the property comprised in Door No.283B, East Avani Moola Street, Madurai till the appeal by the petitioner in A.P.R.C.No.39187/2020 challenging the order dated 20.08.2020 made in M.P.No.136/2019 is entertained and heard by the 1st respondent on merits.

PRAYER in W.P.(MD)No.14315 of 2020:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, to call for the records of the 3rd respondent, dated 18.09.2020 in proceedings Na.Ka.No.5107/2018/E2-2 and quash the same as arbitrary, ultravires and contrary to the order passed in Suomotu W.P.No.7413 of 2020 and consequently, to direct the 3rd respondent to stop the proceedings of eviction in respect of the property comprised in Door No.283A, East Avani Moola Street, Madurai till the appeal by the petitioner in A.P.R.C.No.39187/2020 challenging the order dated



20.08.2020 made in M.P.No.137/2019 is entertained and heard by the 1st respondent on merits.

For Petitioner

:Mr.R.G.Shankar Ganesh

For R1, R2 and R4

:Mr.K.P.Narayanakumar

Special Government Pleader

For R3

:Mr.V.R.Shanmuganathan

(in both cases)

COMMON ORDER

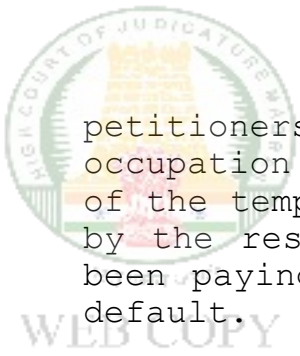
These Writ Petitions have been filed by the respective petitioners challenging the impugned eviction notice, dated 18.09.2020 issued by the 3rd respondent herein.

2.Heard Mr.R.G.Shankar Ganesh, learned Counsel appearing for the petitioner, Mr.K.P.Narayanakumar, learned Special Government Pleader, appearing for the Respondent Nos.1 and 2 and Mr.V.R.Shanmuganathan, learned Counsel for the 3rd respondent.

3.According to the respective petitioners, they are in possession and occupation of the respective premises for the past fifty years. It is admitted by the respective petitioners that the respective properties belong to the 3rd respondent temple. According to them, earlier the HR & CE Department initiated eviction proceedings under Section 80 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 against the respective petitioners.

4.It is also their case that by the orders of the 2nd respondent dated 20.08.2020, the respective petitioners were directed to hand over vacant possession of their respective shops to the HR & CE Department. Aggrieved by the same, the respective petitioners have preferred the statutory appeals under Section 81 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 before the 1st respondent. According to the respective petitioners, the statutory appeals were filed within the prescribed period. Further, it is the case of the respective petitioners that the 1st respondent is not conducting regular proceedings or chamber proceedings in view of the current pandemic situation. It is the case of the respective petitioners that despite the respective petitioners having preferred the statutory appeals under Section 81 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 and taking advantage of the pandemic situation, the 3rd respondent, under the impugned eviction notice, dated 18.09.2020, has called upon the respective petitioners to hand over vacant possession of their respective shops within 30 days from the date of receipt of the impugned notice. In such circumstances, these Writ Petition have been filed.

5.It is not in dispute that the respective petitioners are in occupation of their respective shops, which belong to the 3rd respondent temple for almost fifty years. The 2nd respondent had earlier initiated eviction proceedings against the respective



petitioners only on the ground that the shops, which are in the occupation of the respective petitioners, are marring the atmosphere of the temple. It is also seen from the respective affidavits filed by the respective petitioners that the respective petitioners have been paying the lease rentals to the temple without committing any default.

6. Admittedly, the respective petitioners have preferred the statutory appeals as against the order, dated 28.08.2020 passed by the 2nd respondent under Section 80 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 within the prescribed period under Section 81 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. This being the case, the interest of the respective petitioners have to be protected in view of the fact that they are in possession of the respective properties for almost fifty years and they have also been paying the rent regularly to the temple. It is also averred in the affidavits filed in support of these Writ Petitions that due to pandemic situation, regular proceedings are not taking place before the 1st respondent.

7. After giving due consideration to all the aforementioned factors, this Court, though is not inclined to grant the relief sought for in these Writ Petitions, is inclined to grant a limited relief of stay of the impugned eviction notice, dated 18.09.2020 pending disposal of the appeals filed by the respective petitioners under Section 81 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, which were filed before the 1st respondent aggrieved over the order passed by the 2nd respondent under Section 80 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. The 1st respondent is directed to dispose of both the appeals filed by the respective petitioners within a period of three months from the date of receipt of a copy of this order.

8. With the aforesaid directions, these Writ Petitions are disposed of. However, there is no order as to costs. The learned Counsel appearing for the 3rd respondent is directed to inform the respondent temple about the order, that has been passed today by this Court. Consequently, connected miscellaneous petitions are closed.

Sd/-

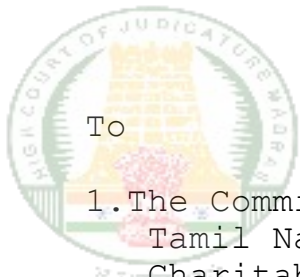
Assistant Registrar (P&A)

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/ /2020

Sub Assistant Registrar(CS)

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To

1.The Commissioner,
Tamil Nadu Hindu Religious and
Charitable Endowments Department,
Nungambakkam, Chennai.

2.The Joint Commissioner,
Tamil Nadu Hindu Religious and
Charitable Endowments Department,
Ellish Nagar, Madurai.

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4.The Assistant Commissioner,
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Charitable Endowments Department,
Madurai.

+1 CC to M/s.SPL GP (SR-20169[F] dated 15/10/2020)

Common Order made in
W.P. (MD)Nos.14313 and 14315 of 2020
13.10.2020

KG(CO)

KB(29.10.2020) 4P 6C