



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.08.2021

CORAM

THE HON'BLE Mr.JUSTICE M.SUNDAR

W.P.Nos.17785, 17790 & 17794 of 2021
and
WMP.Nos.18973, 18977 & 18979 of 2021

Aysha Banu

... Petitioner in WP.17785/2021

Mohamed Sheriff

... Petitioner in WP.17790/2021

Jainudeen

... Petitioner in WP.17794/2021

-Vs.-

1. The Secretary,
Hindu Religious and Charitable Endowments
Administration Department,
Secretariat, St. George Fort,
Chennai.
2. The Commissioner,
Hindu Religious and Charitable Endowments
Administration Department,
Uthama Gandhi Road,
Nungambakkam, Chennai -34.
3. The Joint Commissioner,
Hindu Religious and Charitable Endowments Administration
Department, Nagapattinam District.
4. The Assistant Commissioner,
Hindu Religious and Charitable Endowments Administration
Department, Nagapattinam District.
5. The Executive Officer,
Arulmigu Vedaranyeswaraswamy Temple,
Vedharanyam Taluk,
Nagapattinam District.
6. The District Collector,
District Collectorate Office,
Nagapattinam.



7. The District Revenue Officer,
District Collectorate Office,
Nagapattinam.

8. The Revenue Divisional Officer,
Vedharanyam, Nagapattinam District.

9. Tasildhar,
Vedharanyam, Nagapattinam District.

10. The Superintendent of Police,
Office of Superintendent of Police, Nagapattinam.

11. The Deputy Superintendent of Police,
Office of the Deputy Superintendent of Police,
Vedharanyam, Nagapattinam District.

12. The Inspector of Police,
Vedharanyam, Nagapattinam District.

... Respondent in all WPs.

Prayer in WP.No.17785 of 2021: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the respondents particularly the 3rd to 5th respondents from evicting the petitioner in survey No.892 /1 to an extent of one acre o.14 Cents, S.No.No.892/3 to an extent of one acre 86 cents, Vadakattalai, Chinnagkadu, Vedaranyam Town, Nagapattinam District without following the due process of law.

Prayer in WP.No.17790 of 2021: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the respondents particularly the 3rd to 5th respondents from evicting the petitioner in survey No.892 /3 to an extent of one acre 1.50 Cents, Vadakattalai, Chinnagkadu, Vedaranyam Town, Nagapattinam District without following the due process of law.

Prayer in WP.No.17794 of 2021: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the respondents particularly the 3rd to 5th respondents from evicting the petitioner in survey No.894 /04 to an extent of one acre 0.62 Cents, S.No.896/1 to an extent of 2 acres 0.7 cents, S.No.896/2 to an extent of 0.13 cents, S.No.899 to an extent of 30 cents, Vadakattalai, Chinnagkadu, Vedaranyam Town, Nagapattinam District without following the due process of law.

For Petitioner in all WPs : Mr.G.Mohammed Aseef

For Respondents in all WPs. : Mr.N.R.R.Arun Natarajan
Government Advocate



COMMON ORDER

Captioned Writ Petitions and 'Writ Miscellaneous Petitions' ['WMPs' in plural and 'WMP' in singular for the sake of brevity] thereat have been listed in the admission Board before me i.e., in the Motion List under the cause list caption 'FOR ADMISSION'.

2. Mr.G.Mohammed Aseef, learned counsel for the three writ petitioners is before this virtual Court.

3. Learned counsel, adverting to the writ affidavit submitted that the writ petitioners are tenants under 'Arulmigu Vedaranyeswara Swamy Temple, Vedharanyam, Nagapattinam District' [hereinafter 'said Temple' for the sake of convenience and clarity] in different demised parcels of land.

4. Learned counsel submits that said Temple earlier issued notices, the same were challenged by these writ petitioners along with nine other similarly placed tenants and all the eleven writ petitions came to be disposed of by another Hon'ble Single Judge on 04.06.2021 inter alia holding that the matter is pre-mature.

5. The apprehension of the writ petitioners now is, the Authorities of 'Tamil Nadu Hindu Religious and Charitable Endowment Department' [hereinafter 'TN HR & CE Department' for the sake of brevity] under whose Management the Administration of said Temple is, may dispossess the writ petitioners from their respective demised parcels of land by force de hors the due process of law.

6. Mr.NRR.Arun Natarajan, learned State counsel, who is before this Court accepted notice on behalf of all the twelve respondents and submitted that the said Temple would initiate proceedings under Section 78 of 'The Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Act 22 of 1959)' [hereinafter 'TN HR & CE Act' for the sake of convenience and clarity] and dispossession if at all and if that be so, shall be only in accordance with and pursuant to the proceedings under Section 78 of TN HR & CE Act. This submission is recorded. This douses the anxiety of the writ petitioner.

7. The scheme under TN HR & CE Act regarding removal of encroachment is clear and third respondent in the captioned writ petitions i.e., Joint Commissioner has been vested with the power to exercise jurisdiction under Section 78 of TN HR & CE Act. To be noted, under Section 78 of TN HR & CE Act, there is a legal fiction that even a lessee on termination of lease becomes an encroacher. It is not necessary to dilate any



further on these aspects of the matter as a quasi judicial authority is going to adjudicate upon the matter. Suffice to say that writ petitioners would come within the sweep and drill of Section 78 proceedings and Section 78 proceedings have to be adjudicated upon by a quasi judicial authority i.e., Joint Commissioner in accordance with law and in accordance with procedure adumbrated under Section 78 of TN HR & CE Act.

8. This being the second round of litigation, this Court is of the considered view that it would serve the purpose of all concerned by making the consent order. To be noted, as the stated position of the State counsel has been recorded, the anxiety of writ petitioners qua dispossession de hors due process of law stands doused as alluded to supra. Therefore, it is appropriate in the interest of all concerned to dispose of these writ petitions by way of a consent order by giving a set of directives.

9. Captioned writ petitions are disposed of by making the following order:

(a) Competent authority qua said Temple i.e., Arulmigu Vedaranyeswara Swamy Temple, Vedharanyam, Nagapattinam District, shall initiate proceedings under Section 78 of TN HR & CE Act qua properties in occupation of the writ petitioners on or before 15.09.2021;

(b) In the above proceedings, all necessary parties shall be arrayed as respondents;

(c) The above proceedings shall be before the Joint Commissioner, who is statutorily vested with the Authority exercise jurisdiction under Section 78 of TN HR & CE Act;

(d) The Joint Commissioner shall conduct Section 78 proceedings in accordance with the procedure laid down under TN HR & CE Act and complete the same as expeditiously as possible i.e., as expeditiously as his business would permit and in any event within three(3) months from 15.09.2021 i.e., on or before 15.12.2021.

(e) Dispossession of the writ petitioners qua demised parcels of land if at all and if that be so will be depending on the orders made in Section 78 proceedings and not de hors the same.



10. The aforesaid writ petitions are disposed of with the aforementioned directions. Consequently, connected WMPs therein are also disposed of as closed. There shall be no order as to costs.

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Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Hindu Religious and Charitable Endowments
Administration Department,
Secretariat, St. George Fort, Chennai.
2. The Commissioner,
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+1CC to the Government Pleader, SR.Nos.43145, 43143, 43144.

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SSD (CO)
K.RK. (20.09.2021)