



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.09.2021

CORAM

THE HON'BLE Mr.JUSTICE M.SUNDAR

W.P.No.18106 of 2021

S.Basheer Ahamed
S/o.Sindhamarakayar

... Petitioner

-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 District.
- 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 Deputy Superintendent of Police,
Vedharanyam, Nagapattinam District.

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

... Respondents

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.899/2 to an extent of 0.50 cents, Vadakattalai, Chinngkadu, Vedaranyam Town, Nagapattinam District without following the due process of law.

For Petitioner	:	Mr.G.Mohammed Aseef
For Respondents	:	Mr.NRR.Arun Natarajan Government Advocate (HR & CE) for R1 to R4 Mr.Bharanidharan for R5 Mr.T.N.C.Kaushik Government Advocate for R6 to R12

O R D E R

This order has to be read in conjunction with and in continuation of earlier proceedings made in the previous listings on 01.09.2021 and 03.09.2021, which read as follows:

'Proceedings dated 01.09.2021

Mr.G.Mohammed Aseef, learned counsel for sole writ petitioner is before this Virtual Court.

2. The short point that is being urged is the writ petitioner has been dispossessed de hors proceedings under Section 78 of 'The Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act No.22 of 1959)' [hereinafter 'TN HR&CE Act' for the sake of convenience and clarity] and this is



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clearly illegal. The critical averments in this regard are set out in paragraph Nos.11 and 12 of writ affidavit.

3. Mr.NRR.Arun Natarajan, learned State counsel accepts notice on behalf of respondents 1 to 4 and 6 to 12. Mr.R.Bharanidharan, learned counsel who has joined this virtual hearing accepts notice on behalf of fifth respondent-Executive Officer of 'Arulmigu Vedaranyeswaraswamy Temple' which shall hereinafter be referred to as 'said Temple' in this and further proceedings/orders.

4. Learned counsel for 5th respondent requests for a short accommodation to get instructions and revert to this Court. Request acceded to.

5. List in the Admission Board i.e., 'Motion List' day after tomorrow i.e., on 03.09.2021.

Proceedings dated 03.09.2021

Read this in conjunction with and in continuation of earlier proceedings made in the previous proceedings on 01.09.2021.

2. In the earlier proceedings, it has been recorded that State counsel Mr.NRR. Arun Natarajan accepts notice for respondents 1 to 4 and 6 to 12, but today, this Court is informed by learned State counsel that for Respondents 6 to 12, it would be Mr.T.N.C.Kaushik, learned Government Advocate. Therefore, Mr.T.N.C.Kaushik, learned State counsel accepts notice on behalf of Respondents 6 to 12.

3. Mr. R. Bharanidharan, learned counsel for 5th respondent (Executive Officer of said Temple) makes submissions, on instructions and a summation of the same is as follows:

a) Writ petitioner is in occupation of S. No. 895/2 and not S.No.899/2, which is the prayer in the writ petition.

b) Regarding S. No. 899/2, a notice was issued by the temple being notice dated 15.03.2021 intending to proceed under Sections 78 and 79 of 'The Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Act 22 of 1959)' [hereinafter 'TN HR & CE Act' for the sake of brevity];



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c) While things stood as above, on complaint having been sent to the District Collector, the Revenue officials swung into action, more particularly 8th respondent (jurisdictional Revenue Divisional Officer) took possession of Survey No.899/2 and handed over the same to said Temple on 24.07.2021;

d) Survey No. 899/2 is essentially Praharam qua said Temple;

e) Writ petitioner is not in the country and communications sent to him have been returned unserved (envelopes have been returned is the learned counsel's say).

4. Responding to the above, regarding possession learned counsel for writ petitioner, on instructions, submits that only the fencing has been damaged.

5. Respondents 6 to 12, more particularly eighth respondent to file an Affidavit in the next listing.

List Monday week. List on 13.09.2021.'

2. Mr.Mohammed Aseef, learned counsel for writ petitioner, Mr.NRR.Arun Natarajan, learned State counsel for respondents 1 to 4 (TN HR & CE officials), Mr.R.Bharanidaran, learned counsel for fifth respondent (Executive Officer) and Mr.T.N.C.Kaushik, learned State counsel for respondents 6 to 12 (Revenue Officials) are before this virtual Court.

3. Adverting to proceedings made in the previous listing on 03.09.2021, with the intention of giving a quietus to the controversies regarding possession and the alleged manner in which possession is said to have been taken/attempted to have been taken/disturbed, in the interest of all the parties before this Court, following consent order is being made without precipitating the issues any further:

a) Fifth respondent will initiate proceedings under Section 78 of 'The Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act No.22 of 1959)' [hereinafter 'TN HR & CE Act' for the sake of brevity] regarding Survey No.899/2, Vadakattalai, Chinnagkadu, Vedaranyam Town, Nagapattinam District as expeditiously as his business would permit and in any event, within a fortnight from today i.e., on or before 27.09.2021 and the first hearing before the third respondent shall be on 04.10.2021;

b) on 04.10.2021 in the light of what is recorded in



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paragraph 3(e) of previous proceedings, writ petitioner shall appear before the Joint Commissioner, but it will be open to him to engage a lawyer and all the rights available to a noticee in a case of this nature will be available to the writ petitioner. To be noted, this is only to douse the doubts raised as captured in paragraph 3(e) of previous proceedings;

c) Regarding Survey No.895/2, Vadakattalai, Chinnagkadu, Vedaranyam Town, Nagapattinam District, this Court is informed that proceedings have already been initiated and the next listing is on 15.09.2021. Let those proceedings go on in accordance with law and on its own merits;

d) Regarding Survey No.899/2, in the light of controversies surrounding possession status quo as of today shall be maintained till the disposal of Section 78 proceedings before the third respondent. If the outcome of Section 78 proceedings are adverse to the writ petitioner, status quo shall be maintained for another fortnight from the date of the order;

e) Third respondent is directed to complete proceed with Section 78 proceedings on its own merits and in accordance with law and complete the same as expeditiously as his business would permit i.e., proceedings with regard to Survey No.899/2 and Survey No.895/2 and in any event within eight(8) weeks from today i.e., on or before 08.11.2021;

f) Though obvious, it is made clear that all questions and rival contentions of both sides are left open to be agitated before Joint Commissioner (third respondent) as no opinion or view on the merits of the matter has been expressed in this order.

4. Writ petition disposed of with the above directives. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS III)

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Sub Assistant Registrar



To

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9. Tasildhar,
Vedharanyam,
Nagapattinam District.
10. The Superintendent of Police,
Office of Superintendent of Police,
Nagapattinam.



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

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

+1cc to the Special Government Pleader, S.R.No.46580

+1cc to the Government Pleader, S.R.No.46501

W.P.No.18106 of 2021

NR(CO)
CT(29/09/2021)
13/10/2021