



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.11.2021

CORAM:

**THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND**

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A (MD) No.2015 of 2021

Shekinah Hospital,
Door No.443, K.P. Road,
Parvathipuram,
Nagercoil,
(S.No.G1/95 & G1/96
Vadasery South Village)
Rep. by Dr.S.Alfred Sathya Sekar

... Appellant/Petitioner

Vs.

1.The Joint Commissioner,
Hindu Religious & Charitable Endowment Department,
Tirunelveli.

2.Thakkar/Executive Officer,
Arulmighu Subbramania Swamy Thirukovil,
Tiruchendur.

3.The Assistant Commissioner,
Hindu Religious & Charitable Endowments Department,
Nagercoil - 629 001. ... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, to set aside the order dated 07.09.2021 in W.P(MD)No.15938 of 2021 and allow the Writ Appeal.

Prayer in WP(MD). 15938/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the 1st respondent vide M.P.No.61/2016 dt. 28.02.2017 and quash the same as illegal and consequently direct the respondents herein to give and opportunity to the petitioner to file his objections with relevant records and to dispose the proceedings within the time frame as fixed by this Honble Court and pass such further or other orders as this Honble Court may deem fit and proper in the circumstances of the case and thus render justice.



For Appellant : Mr.D.Saravana
For Respondents : Mr.P.Subbaraj
Government Advocate

JUDGMENT

(Judgment of the Court was delivered by PUSHPA SATHYANARAYANA, J.)

The writ appeal has been filed by the appellant/writ petitioner challenging order of the learned Single Judge made in W.P.(MD)No.15938 of 2021, dated 07.09.2021.

2.A notice under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, dated 28.02.2017, was put to challenge in the above said Writ Petition. The appellant is running a clinic in the disputed property. The only ground that was taken before the Writ Court was that there was no notice issued to them earlier and they did not have the knowledge and there was no enquiry conducted by the respondent authorities.

3.Admittedly, the appellant has also filed a suit in O.S.No.188 of 2021 on the file of the Principal District Munsif Court, Nagercoil, for permanent injunction restraining the authorities from disturbing their possession and the cause of action for the suit is the notice dated 26.08.2021, which is under challenge in the Writ Petition. Therefore, the Writ Court had rightly asked the appellant to proceed with the suit, which has already been initiated. The appellant cannot parallelly prosecute two proceedings based on a single cause of action. Therefore, the Writ Court has rightly dismissed the Writ Petition. We also see no merits to interfere with the order of learned Single Judge. It is open to the appellant to proceed with the suit with appropriate amendments, if any, if they are so advised.

4.The Writ Appeal is dismissed with the above observations. No Costs.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sj

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.

<https://hcservices.ecourts.gov.in/hcservices/>



To:

1.The Joint Commissioner,
Hindu Religious & Charitable Endowment Department,
Tirunelveli.

2.Thakkar/Executive Officer,
Arulmighu Subbramania Swamy Thirukovil,
Tiruchendur.

3.The Assistant Commissioner,
Hindu Religious & Charitable Endowments Department,
Nagercoil - 629 001.

+1 CC to M/s.D.SARAVANAN, Advocate (SR-34198[F] dated 11/11/2021)

+1 CC to M/s.SPL.GP (SR-34257[F] dated 12/11/2021)

W.A(MD)No.2015 of 2021
11.11.2021

SJ(CO)

RS/SKN (22.11.2021) 3P 6C