



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 09.03.2022
CORAM

THE HONOURABLE MR. JUSTICE C.SARAVANAN

Writ Petition (MD) Nos.3554 of 2022, 6716 of 2019 and 18907 of 2020
and
W.M.P.(MD) No.3102 of 2022 in W.P.(MD)No.3554 of 2022
and
W.M.P.(MD)No.5367 of 2019 in W.P.(MD)No.6716 of 2019
and
W.M.P.(MD)No.15838 of 2020 in W.P.(MD)No.18907 of 2020

W.P.(MD)No.3554 of 2022:-

S.Anantharaman

.. Petitioner

Versus

1.The Joint Commissioner,
Tamil Nadu Hindu Religious and Charitable
Endowments,
Myladuthurai,
Myladuthurai District.

2.The Assistant Commissioner/Executive Officer,
Arulmigu Naganatha Swamy Temple,
Thirunageshwaram,
Kumbakonam Taluk,
Thanjavur District.

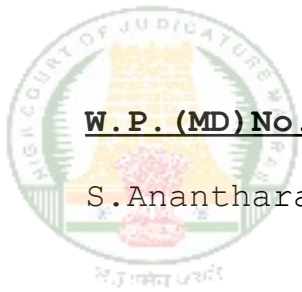
.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the entire records pertaining to the impugned notice issued by the second respondent, dated 12.02.2022, quash the same as illegal and arbitrary and consequently, direct the second respondent do not interfere with the petitioner's peaceful possession and enjoyment of the petitioner's house property in Door No.34 and Survey No.195/1, situated at Sannapuram Village, Sivan Kovil Street, Thirunageshwaram Post, Kumbakonam Taluk, Thanjavur Distrtict.

For Petitioner : Mr.V.Meenakshisundaram
for Mr.G.Gomathi Sankar

For R1 : Mr.P.T.Thiraviam
Government Advocate

For R2 : Mr.V.Chandrasekar



W.P. (MD) No.6716 of 2019:-

S.Anantharaman

.. Petitioner

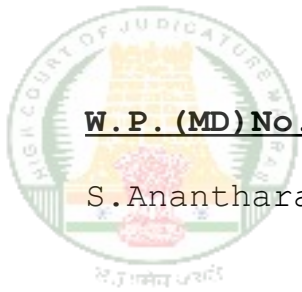
Versus

- 1.The District Collector,
Thanjavur District,
Thanjavur.
- 2.The Tahsildar,
Kumbakonam Taluk Office,
Kumbakonam,
Thanjavur District.
- 3.The Joint Commissioner,
Hindu Religious and Charitable
Endowment Board,
Myladuthurai,
Thiruvarur District.
- 4.The Assistant Commissioner,
Hindu Religious and Charitable
Endowment Board,
Kumbakonam,
Thanjavur District.
- 5.The Assistant Commissioner/Executive Officer,
Arulmigu Naganathaswamy Temple,
Thirunageshwaram,
Thanjavur District.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned notice issued by the third respondent, in his Notification No.19/2019/E1, dated 13.03.2019, quash the same as illegal and arbitrary insofar as the petitioner is concerned, and consequently, direct the respondents do not interfere with the petitioner's peaceful possession and enjoyment of the lands in Survey No.195/1, to an extent of 4636 sq.ft. situated at Thirunageshwaram Village, Kumbakonam Taluk, Thanjavur District.

For Petitioner	:	Mr.V.Meenakshisundaram for Mr.G.Gomathi Sankar
For R1 to R4	:	Mr.P.T.Thiraviam Government Advocate
For R5	:	Mr.V.Chandrasekar



W.P. (MD) No.18907 of 2020:-

S.Anantharaman

.. Petitioner

Versus

1.The Joint Commissioner,
Tamil Nadu Hindu Religious and Charitable
Endowment Board,
Myladuthurai,
Myladuthurai District.

2.The Revenue Divisional Officer,
Kumbakonam,
Thanjavur District.

3.The Tahsildar,
Kumbakonam Taluk Office,
Kumbakonam,
Thanjavur District.

4.The Assistant Commissioner/Executive Officer,
Arulmigu Naganathaswamy Temple,
Thirunageshwaram,
Thanjavur District.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned notice issued by the first respondent, in his proceedings in Miscellaneous Petition No.19/2019, dated 11.11.2020, quash the same as illegal and arbitrary and consequently, direct the respondents 2 and 3 to issue Patta to the petitioner with regard to house property in Door No.34 and Survey No.195/1, situated at Sannapuram Village, Sivan Kovil Street, Thirunageshwaram Post, Kumbakonam Taluk, Thanjavur Distrtict.

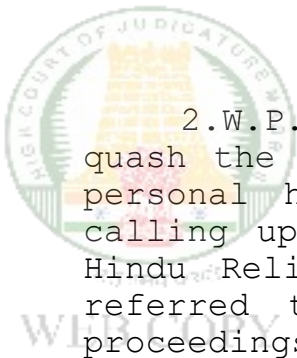
For Petitioner : Mr.V.Meenakshisundaram
for Mr.G.Gomathi Sankar

For R1 to R3 : Mr.P.T.Thiraviam
Government Advocate

For R4 : Mr.V.Chandrasekar

COMMON ORDER

All these writ petitions are taken up for final hearing and disposed of by this common order after hearing the learned counsel for the petitioner and the learned Government Advocate for the official respondents and learned counsel for the Assistant Commissioner/Executive Officer of the Temple.



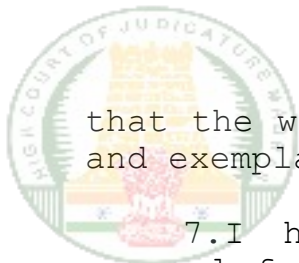
2.W.P.(MD)Nos.6716 of 2019 and 18907 of 2020 have been filed to quash the notice dated 13.03.2019, calling upon the petitioner for personal hearing on 26.03.2019 and the notice dated 11.11.2020, calling upon him for statutory enquiry under Section 78(2) of the Hindu Religious and Charitable Endowments Act, 1959 [hereinafter referred to as 'the H.R. & C.E. Act']] on 17.12.2020. The proceedings initiated against the petitioner in W.P.(MD)No.6716 of 2019 and W.P.(MD)No.18907 of 2020 proceeded on the assumption that the petitioner has encroached upon the property of the Temple and therefore, he should come for an enquiry on the dates mentioned above.

3.It is the specific case of the petitioner that the petitioner's grandfather purchased the property way back in 1975, vide Document No.162/1975, dated 11.12.1975. The learned counsel for the petitioner would submit that the assumption in the impugned notice is, therefore, erroneous and hence, these notices are liable to be quashed by giving liberty to the petitioner to work out the remedy in terms of the orders dated 04.06.2019 and 12.12.2019 in passed W.P.(MD)Nos.7865 of 2019 [W.P.(MD)Nos.4202, 6674 and 7865 of 2019] and 18117 of 2019 respectively, filed by the petitioner.

4.The learned counsel for the petitioner fairly submits that the petitioner has not instituted suit till date, but he will positively file a suit within the period of limitation prescribed. The learned counsel for the petitioner submits that the impugned notice dated 12.12.2022 in W.P.(MD)No.3554 of 2022 has now treated the petitioner as a sub-lessee and therefore, the stand of the respondents that the petitioner is an encroacher, cannot be countenanced. That apart, it is submitted that pursuant to the interim order of this Court dated 24.02.2022 passed in W.P.(MD) No.3554 of 2022, the petitioner has paid the arrears as has been demanded.

5.The learned counsel for the petitioner further submits that as long as the petitioner is in possession of the property, he will continue to pay the above said amount without prejudice to the rights in the civil suit.

6.Opposing the prayer, learned Government Advocate for the official respondents and the learned counsel for the Assistant Commissioner/Executive Officer of the Temple submit that the petitioner has a remedy at the stage when the proceedings are initiated under Section 79 of the H.R. & C.E. Act. It is submitted that the petitioner cannot be a scuttle for the proceedings under Section 78 of the H.R. & C.E. Act, as the impugned notices in W.P.(MD)Nos.6716 of 2019 and 18907 of 2020 are only notices and there is no final determination. In any event, the petitioner has not filed suit, though the petitioner secured orders in W.P.(MD)Nos.7865 of 2019 [W.P.(MD)Nos.4202, 6674 and 7865 of 2019] and 18177 of 2019 on 04.06.2019 and 10.12.2019, respectively. It is, therefore, submitted



that the writ petitions are liable to be dismissed as not *bona fide* and exemplary costs should be imposed on the petitioner.

7.I have considered the arguments advanced by the learned counsel for the petitioner, the learned Government Advocate for the official respondents and the learned counsel for the Assistant Commissioner/Executive Officer of the Temple.

8.The petitioner has challenged the impugned order dated 12.02.2022 in W.P.(MD)No.3554 of 2020. In terms of the interim order dated 24.02.2022, the petitioner has paid the amount as demanded. In the light of the above compliance, nothing survives for further adjudication and therefore, **W.P.(MD)No.3554 of 2022 is closed.** No costs. However, the petitioner is directed to continue to pay the amounts to be demanded by the respondent Temple without prejudice to his rights in the civil proceedings to be initiated by the petitioner. Consequently, connected Miscellaneous Petition is closed.

9.As far as W.P.(MD)Nos.6716 of 2019 and 18907 of 2020 are concerned, the petitioner has challenged only the notices issued under Section 78(2) of the H.R. & C.E. Act. There is no final determination as to whether the land in question belongs to the petitioner or the Temple. It is only a *prima facie* view based on a report under Section 78(1) of the H.R. & C.E. Act. The petitioner has alternate remedy even at the stage of proceedings under Section 79(2) of the H.R. & C.E. Act, apart from the fact that the petitioner has also been given liberty to work out the remedy before the Civil Court.

10.Considering the same, I am inclined to dispose of W.P.(MD) Nos.6716 of 2019 and 18907 of 2020, by directing the petitioner to appear before the Joint Commissioner, H.R. & C.E., Myladudurai, for statutory enquiry under Section 78(2) of the H.R. & C.E. Act, on the next date that may be fixed by the Joint Commissioner. It is open for the petitioner to substantiate his rights before the Joint Commissioner. It is also open to the petitioner to file a suit as has been ordered by this Court on an earlier occasion while passing the order dated 04.06.2019 and 10.12.2019 in W.P.(MD)Nos.7865 of 2019 [W.P.(MD)Nos.4202, 6674 and 7865 of 2019] and 18177 of 2019, respectively. The petitioner shall continue to pay the amounts that may be demanded by the respondent Temple. The payment of amount will be treated as deposit and thus without prejudice to the rights of the petitioner.

11.The Joint Commissioner, H.R. & C.E., Myladudurai, shall endeavour to complete the proceedings pursuant to the impugned notice under Section 78(2) of the H.R. & C.E. Act, within a period of six months from the date of receipt of a copy of this order.



12.W.P.(MD)Nos.6716 of 2019 and 18907 of 2020 are disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS III)

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/ /2022

Sub Assistant Registrar(CS)

To

- 1.The District Collector,
Thanjavur District,
Thanjavur.
- 2.The Revenue Divisional Officer,
Kumbakonam,
Thanjavur District.
- 3.The Tahsildar,
Kumbakonam Taluk Office,
Kumbakonam,
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- 4.The Joint Commissioner,
Hindu Religious and Charitable
Endowment Board,
Myladuthurai,
Thiruvarur District.
- 5.The Assistant Commissioner,
Hindu Religious and Charitable
Endowment Board,
Kumbakonam,
Thanjavur District.

+1 CC to M/s.G.GOMATHI SANKAR, Advocate (SR-10938[F] dated 09/03/2022)

+1 CC to M/s.V.CHANDRASEKAR, Advocate (SR-11046[F] dated 10/03/2022)

+1 CC to M/s.SPL GP (SR-11183[F] dated 10/03/2022)

Common order in
Writ Petition (MD) Nos.3354 of 2022, 6716 of 2019 and
18907 of 2020
09.03.2022

SS/22.03.2022 : 6P/9C

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