



WEB COPY

W.P(MD).No.5502 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.03.2022

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P(MD) .No.5502 of 2022

and

W.M.P(MD) .Nos.4458 and 4459 of 2022

T.Swaminathan

... Petitioner

Vs.

1.The Commissioner,
HR&CE Department,
Nunghambakkam, Chennai.

2.The Joint Commissioner,
HR&CE Department,
Myiladuthurai,
Thanjavur District.

3.The Executive Officer,
Arulmighu Saranatha Perumal Thirukoil,
Kumbakonam,
Thanjavur District.

4.Banumathi

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in R.P.No.162 of 2019, dated 28.05.2020 on the file of the first respondent confirming the order dated 06.05.2019 in Miscellaneous Petition No.97 of 2018 on the file of the second respondent herein and quash the same as illegal and to declare took over possession dated 14.03.2022 by the respondents in pursuant to above said orders as null and void and consequently to forbear the respondents 1 to 3 from demolishing house property with petty shop belonging to the fourth respondent who is necessary and proper party without issuing the show cause notice to her under the principles of Natural Justice particularly the procedure to be followed Article 21 of the Constitution of India.

For Petitioner	: Mrs.G.Dhanalakshmi
For R1 & R2	: Mr.P.Subbaraj
	Special Government Pleader
For R3	: Mr.V.Chandrsekar



ORDER

After hearing the learned counsel for the petitioner and the learned Special Government Pleader for the respondents land 2 and the learned counsel for the third respondent, I do not find any merits in the present writ petition.

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2.The petitioner had earlier suffered an eviction order under Section 78 of the Hindu Religious and Charitable Endowments Act, 1959 on 06.05.2019 by the second respondent. The petitioner had thereafter preferred a further revision before the first respondent/Commissioner under Section 21 of the Hindu Religious and Charitable Endowments Act, 1959. The aforesaid revision has also been dismissed by the impugned order. Meanwhile, the proceedings under Section 79 of the Hindu Religious and Charitable Endowments Act, 1959 were initiated and delivery of possession was also taken by the respondents on 14.03.2022. The averments in the affidavit indicate that the petitioner is not a registered tenant of the temple. On the other hand, the petitioner claims to have purchased the property under unregistered sale agreement and such transactions are not recognised under the Act. In any event, such transactions cannot be entered into such property which belongs to the third respondent temple.

3.While dismissing this writ petition, I am inclined to observe that the petitioner has an alternate remedy under Section 114 of the Hindu Religious and Charitable Endowments Act, 1959 before the Government. Therefore, liberty is given to the petitioner to work out alternate remedy before the Government.

4.The writ petition stands dismissed with the above observations. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (Writs)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

To

1.The Commissioner,
HR&CE Department,
Nunghambakkam, Chennai.



2.The Joint Commissioner,
HR&CE Department,
Myiladuthurai,
Thanjavur District.

3.The Executive Officer,
Arulmighu Saranatha Perumal Thirukoil,
Kumbakonam,
Thanjavur District.

+1 CC to M/s.V.CHANDRASEKAR, Advocate (SR-15450[F] dated 30/03/2022)

+1 CC to M/s.G.DHANALAKSHMI, Advocate (SR-15028[F] dated 29/03/2022)

+1 CC to M/s.SPL GP (SR-15338[F] dated 30/03/2022)

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RS (07.04.2022) 3P-7C