



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.03.2022

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P(MD).No.12761 of 2019

and

W.M.P. (MD).Nos.9496, 9497 and 13245 of 2019

A.C.Rajarathinam

... Petitioner

Vs.

1.The Joint Commissioner,
HR&CE Department,
Madurai.

2.The Assistant Commissioner,
HR&CE Department,
Dindigul.

3.The Inspector,
HR&CE Department,
Periyakulam,
Theni District.

4.The Executive Officer,
Arulmigu Kambaraya Perumal Thirukoil,
Cumbum,
Uthamapalayam Taluk,
Theni District.

...Respondents

Prayer: 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 pertaining to the order passed by the first respondent in M.P.No.41/2019, dated 24.04.2019 and quash the same and interfering with the peaceful possession and enjoyment of property in Theni District, Uthamapalayam Taluk, Cumbum and the land belongs to Arulmigu Kambaraya Perumal Thirukovil in S.F.No.769/857 in Door No.38 over an extent of 124 square feet.

For Petitioner	: Mr.S.Prem Kumar
For R1 to R3	: Mr.P.Subbaraj Special Government Pleader
For R4	: Mr.C.Gunaseelarupan



ORDER

The petitioner has an alternate remedy under Section 21 of the Hindu Religious and Charitable Endowments Act, 1959. It appears that the petitioner was allotted with a small piece of land measuring about 124 square feet comprised in Survey No.769/857 in Door No.38.

2. The show cause notice seems to indicate that the land that was allotted to the petitioner was a house site. The petitioner has put up a construction with the consent of the respondents. However, later, the petitioner has altered the house and made certain changes to make it for being used as a computer centre. It has thus resulted in leakage of revenue to the temple inasmuch as the petitioner is paying rent for a house, whereas, the property is used for a commercial purpose.

3. The copy of the original allotment letter is not available before this Court. It is not clear whether there are any restrictions under the original allotment letter, which would debar the petitioner from converting the use of the house property or making alterations. The petitioner has also not replied to the notice issued by the respondents by treating the petitioner as an encroacher.

4. Considering the fact that the petitioner is aged about 72 years on the date of filing of the writ petition in 2019, I am inclined to dispose the writ petition by allowing the petitioner to file an application for revision under Section 21 of the Hindu Religious and Charitable Endowments Act, 1959 before the Commissioner. The commissioner may consider the case of the petitioner and come to a fair conclusion as to whether there was any embargo on conversion of the property from being used as a house property to a commercial property. In case, there was an embargo, the Commissioner may also consider whether the petitioner can be asked to pay the fair rent on account of the conversion instead of evicting the petitioner. The petitioner is directed to file an appropriate application before the commissioner within a period of thirty days from the date of receipt of copy of this order. The Commissioner shall consider and pass appropriate orders on merits and in accordance with law duly keep the observations made in this order. The pending disposal of such application, the petitioner shall not be evicted. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



To

1.The Joint Commissioner,
HR&CE Department,
Madurai.

2.The Assistant Commissioner,
HR&CE Department,
Dindigul.

3.The Inspector,
HR&CE Department,
Periyakulam,
Theni District.

4.The Executive Officer,
Arulmigu Kambaraya Perumal Thirukoil,
Cumbum,
Uthamapalayam Taluk,
Theni District.

+1 CC to M/s.C.GUHASEELARUPAN, Advocate (SR-10874[F] dated
09/03/2022)

+1 CC to M/s.SPL GP (SR-11188[F] dated 10/03/2022)

+1 CC to M/s.S.PREMKUMAR, Advocate (SR-11230[F] dated 10/03/2022)

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