



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P.(MD)Nos.12399 and 12401 of 2022

and

WMP(MD)Nos.8803 and 8806 of 2022

WEB COPY

P.N.Mohammed Atham
2022

.. Petitioner in W.P.(MD)No.12399 of

M.Syed Ibrahim
2022

.. Petitioner in W.P.(MD)No.12401 of

Vs

1.The Commissioner

Tamil Nadu Hindu Religious and Charitable
Endowments Department,
Nungambakkam,
Chennai.

2.The Joint Commissioner

Hindu Religious and Charitable Endowments Department,
Ellis Nagar,
Madurai.

3.The Joint Commissioner/Executive Officer,
Arulmigu Meenakshi Sundareswarar Temple,
Madurai.

4.The Assistant Commissioner

Tamil Nadu Hindu Religious and Charitable
Endowments Department, Admin Department,
Madurai.

.. Respondents in both the W.Ps.

PRAYER in both the W.Ps.:- Petitions filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Certiorari, to call for the records of the first respondent, dated 09.03.2022, made in A.P.Nos.41/2020 D2 and 43/2020 D2 respectively, and quash the same as arbitrary and *ultra vires*.

For Petitioner : Mr.R.G.Shankar Ganesh
(in both the W.Ps.)

For R1, R2 and R4 : Mr.M.Lingadurai
(in both the W.Ps.) Special Government Pleader

For R3 : Mr.VR.Shanmuganathan
(in both the W.Ps.) Standing Counsel

**COMMON ORDER**

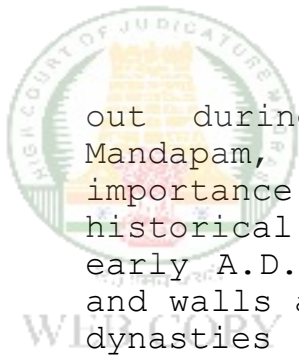
Since the issue involved in both the writ petitions is one and the same, they have been clubbed together, heard together and are being disposed of by this common order.

2.The contention of the petitioners is that they are running a thread shop and mobile shop in Door Nos.283B and 283A respectively, at Arulmigu Kalabairavar Temple, East Avani Moola Street, Madurai, which is a sub Temple of Arulmighu Meenakshi Sundareswar Temple, Madurai, and they have been running the shops for generations together and regularly paying the rent to the Temple. While so, proceedings were initiated by the third respondent before the second respondent under Section 80 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 [hereinafter referred to as 'the H.R. & C.E. Act'], for eviction on the ground that the petitioners' shops are marring the appearance of Arulmigu Kalabairavar Temple. The proceedings initiated by the third respondent were taken on file as M.P.Nos.136 and 137 of 2019 respectively. After hearing both sides, the second respondent passed an order under Section 80 of the H.R. & C.E. Act, on 20.08.2020 evicting the petitioners from the property comprised in Door Nos.283/B and 283/A. Challenging the order dated 20.08.2020, passed in M.P.Nos.136 and 137 of 2019, the petitioners preferred appeals in A.P.Nos.41 and 43 of 2020 D2 before the first respondent/Commissioner, which were dismissed on 09.03.2022. Challenging the said order, the petitioners have filed these Writ Petitions.

3.The learned counsel for the petitioners submits that the petitioners have not filed any revision before the Secretary to Government and also not filed any suit or petition before the Civil Court or before this Court. The request of the petitioners is that, they can be permitted to carry on their business till 15.07.2022 and they shall vacate the shops without any hindrance and handover vacant possession of the shops to the Temple authorities on that day. Further, they gave an undertaking that they shall not initiate any proceedings in respect of subject property as against the respondent Temple. The petitioners filed affidavits in confirmation to the same.

4.Mr.M.Lingadurai, learned Special Government Pleader takes notice for the respondents 1, 2 and 4 and submits that in a similar situation, the small vendors of Pooja articles were permitted to carry on business till 15.07.2022 in the respondent Temple based on the undertaking affidavit filed by them. Therefore, the petitioners may also be directed to vacate the shops on 15.07.2022 without any hindrance and hand over vacant possession of the shops to the Temple authorities, so as to enable them to restore the glory of the Temple.

5.The learned counsel appearing for the third respondent/Joint Services, submits that earlier, a fire broke



out during the month of February 2018 in Veeravasantharayar Mandapam, due to which, historical, monumental and archaeological importance of the Mandapam lost. It is not in dispute that many historical evidences of this Temple have been found dating back from early A.D. The pillars have got unique carvings and pillar, roofs and walls are with unique engraving and carvings spread over several dynasties which are of historical importance. The Temple itself is an architectural monument, which is one of the kinds in the world. The duty of the Temple authorities is to retain and maintain the Temple as it is and to ensure that no damage is caused by any means. For that purpose and also to restore the artistic appearance and to create the religious atmosphere of the Temple, the eviction of the shops within the Temple premises is necessary. For that reason, the Joint Commissioner ordered eviction under Section 80 of the H.R. & C.E. Act, against which, the petitioners have filed appeals. Both the appeals got dismissed on 09.03.2022. Challenging the same, the petitioners rushed to this Court. Now, steps are taken in consultation with the Archaeological Department to restore and maintain the glory of the Temple. Since the petitioners now come forward and filed undertaking affidavits that they will vacate the premises by 15.07.2022, this Court may pass appropriate orders.

6.No doubt, there was a fire accident in the year 2018 in Veeravasantharayar Mandapam, which made the authorities to open up their eyes and find out the reason for the accident. Due to the fire, the monument of Veeravasantharayar Mandapam destroyed. Whatever may be the restoration, it cannot regain its original glory. Thereafter, realizing the potential disaster of the other shops, steps are taken to remove all the shops. In the meanwhile, due to Covid-19 Pandemic, the Temple and shops were closed for some time. Thereafter, they were allowed to continue their business. In the meanwhile, the Executive Officer of the Temple, after detailed study to restore the glory of the Temple, to maintain the grandeur of the Temple and to create the religious atmosphere inside the Temple, took steps under Section 80 of the H.R. & C.E. Act and the Joint Commissioner, after issuance of notice, conducted enquiry and passed orders to evict the petitioners. Aggrieved against the same, the petitioners have approached the first respondent/Commissioner in A.P.Nos.41 and 43 of 2020/D2. The Commissioner, after considering all the facts, passed a detailed order dated 09.03.2022, confirming the order of eviction passed by the Joint Commissioner. Be that as it may, the petitioners have now come forward with the plea that they may be permitted to run the shops till the Aani Month festival upto 15.07.2022 and by then, they shall vacate the shops on their own. Further, they gave an undertaking that they shall not initiate any proceedings in respect of subject property as against the respondent Temple.

7.In view of the above and recording the affidavit of undertaking filed by the petitioners, this Court directs the Temple



thereafter, to vacate the shops without any delay and take possession of the shops and restore the Temple of its glory and grandeur.

8. With the above directions, these Writ Petitions stand disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (As)

// True Copy //

/07/2022

Sub Assistant Registrar (CS)

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To

1. The Commissioner
Tamil Nadu Hindu Religious and Charitable
Endowments Department,
Nungambakkam,
Chennai.
2. The Joint Commissioner
Hindu Religious and Charitable Endowments Department,
Ellis Nagar,
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Arulmigu Meenakshi Sundareswarar Temple,
Madurai.
4. The Assistant Commissioner
Tamil Nadu Hindu Religious and Charitable
Endowments Department, Admin Department,
Madurai.

+1 CC to M/s.SPL.GP (SR-28999[F] dated 30/06/2022)

W.P.(MD)Nos.12399 and 12401 of 2022

28.06.2022

MGJ(07.07.2022) 4P 6C