



WP (MD) No.12593 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.06.2022

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Writ Petition (MD) No.12593 of 2022

and

W.M.P.(MD)No.8924 of 2022

- 1.A.Devasenapathy
- 2.S.Durairaj
- 3.K.Meenakshi
- 4.A.Rengan
- 5.S.Lakshmi Narayanan
- 6.K.Sridhar
- 7.P.G.Vijay
- 8.P.Purushothaman
- 9.K.R.Karthikeyan
- 10.P.Alagia Manavalan
- 11.S.Saravanan
- 12.A.Govindan
- 13.P.Tamilselvan
- 14.M.Mookkaiya
- 15.Rajasekar
- 16.S.Saranraj
- 17.P.Dharmarajan
- 18.S.Balachandran
- 19.G.Ramesh
- 20.R.S.Selvaraj
- 21.T.Rajagopal
- 22.D.Govindarajan
- 23.R.S.Selvaraj
- 24.A.Rengan
- 25.P.Rengarajan
- 26.E.Suresh
- 27.K.Selvam
- 28.K.Ranganathan
- 29.P.Rangarajan
- 30.M.Sundarraaj



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31.K.Uppil Srinivasan
32.K.Sundaram

.. Petitioners

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Versus

1.The Secretary,
Government of Tamil Nadu,
Tourism, Culture and Religious Endowments Department,
Secretariat, Chennai – 600 009.

2.The Joint Commissioner/Executive Officer,
Sri Ranganatha Swamy Devasthanam,
Srirangam.
Tiruchirappalli – 620 006.

.. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records of the impugned notices issued by the second respondent in Na.Ka.No. 4594/2015/A8, dated 13.06.2022, quash the same as illegal and consequently, direct the first respondent to dispose of the appeals filed by the petitioners within a stipulated time that may be fixed by this Court.

For Petitioners	:	Mr.N.Vallinayagam Senior Counsel for Mr.S.Madhavan
For R1	:	Mr.M.Lingadurai Special Government Pleader
For R2	:	Mr.M.Saravanan Standing Counsel

ORDER

The petitioners have challenged the impugned notice of the second

<https://www.mhc.tn.gov.in/judicial> respondent, dated 13.06.2022, and consequently, direct the first respondent to



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dispose of the appeals filed by the petitioners within a stipulated time to be fixed by this Court.

2.The learned Senior Counsel appearing for the petitioners submits that the petitioners are tenants of the second respondent Temple. The shops are there for more than three generations. The petitioners' family members have been eking out their livelihood from the income derived from the business done in the aforesaid shops. In the year 2014, the Temple Management caused a notice dated 17.09.2014 to vacate the premises on the ground of renovation [Thiruppani] work. The second respondent initiated proceedings under Section 80 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 [hereinafter referred to as "the H.R. & C.E. Act"]. Based on the report of the Assistant Commissioner, the first respondent sent a notice in terms of Sections 78 and 80 of the H.R. & C.E. Act. No valid reasons have been spelt out in the notice to proceed against the petitioners under Sections 78 and 80 of the H.R. & C.E. Act. The petitioners questioned the maintainability of the said proceedings before the second respondent and the same were dismissed and revisions filed before the Commissioner in R.P.Nos.5 to 17 and 54 to 72 of 2017, which were allowed and the case was remanded. Thereafter, instead of initiating fresh proceedings, the second respondent continued earlier proceedings on the basis of the earlier notice already issued.



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3.The learned Senior Counsel further submits that the petitioners or their ancestors have not extended any construction to mar the artistic appearance or religious atmosphere of the said Institution and that the petitioners have inherited the right of tenancy and there is no change in the landlord-tenant relationship. Mere recording of petitioners' name in the place of their forefathers, whose names reflected in DCB, do not constitute any fresh tenancy. Even though the same has been brought to the notice of the second respondent, repeated orders passed without application of legality of the exact provision of law. Thereafter, appeals were filed before the Commissioner of the H.R. & C.E. Department under Section 21 of the H.R. & C.E. Act, invoking several grounds including the fact Rule 3(1) of G.O.(Ms)No.383, was not followed and the tenancy was never terminated, vide notice dated 17.09.2014. The petitioners have also pleaded before the Commissioner to consider that their livelihood will become questionable, if eviction orders are passed. The Commissioner has dismissed the appeals in A.P.Nos.37 to 46 of 2019 and 7 to 10 of 2020, by common order dated 04.05.2022. In the said order, in Paragraph 8, giving reasons for passing the order of eviction, the Commissioner has stated that the shops are situated within the Temple precincts between the Pillar abutting the Temple walls. Admittedly, the shops are lying at the height of 12 feet between two pillars of the Temple, marring the sculptures engraved in the Pillars, which were constructed during Sangam



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Era. The order of the Joint Commissioner was confirmed by the order of the Commissioner, thereby, the eviction of the petitioners from the shops have been confirmed.

4. Aggrieved by the order of the Commissioner of H.R. & C.E., revisions under Section 114 of the H.R. & C.E. Act have been filed on 19.05.2022 and 23.05.2022 before the first respondent. The order of the Commissioner is challenged on the ground that the Commissioner has not considered the Pillars were not marred by the shops, which are admittedly, located in between two Pillars and the same have been rented out by the Temple authorities and eviction puts the livelihood of the petitioners in question.

5. The learned Senior Counsel appearing for the petitioners further submits that the first respondent, vide his communications in Na.Ka.No. 6344/Religious Endowment 4-2/2022-1, dated 20.06.2022 and Na.Ka.No. 6225/Religious Endowment 4-2/2022-1, dated 21.06.2022, has stated that the revisions numbered in R.P.Nos.16 to 29 of 2022 and R.P.Nos.30 to 47 of 2022. In view of the same, it would be appropriate to direct that the eviction proceedings to be kept pending till the disposal of the revisions. In the meanwhile, if the petitioners are forcibly evicted, their rights would be affected and grave prejudice would be caused.



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6.The learned Special Government Pleader appearing for the first respondent submits that the second respondent initiated proceedings under Section 80 of the H.R. & C.E. Act. Based on the report of the Assistant Commissioner, the first respondent sent a notice in terms of Sections 78 and 80 of the H.R. & C.E. Act. The petitioners questioned the maintainability of the said proceedings before the second respondent and the same were dismissed and the revisions filed before the Commissioner in R.P.Nos.5 to 17 and 54 to 72 of 2017 allowed and the case was remanded back to the second respondent, directing him to consider the petitioners' plea and petitions afresh and thereafter, the second respondent has passed an order, against which, petitioners filed appeals before the Commissioner. The Commissioner dismissed the appeals, confirming the order of the Joint Commissioner, directing the petitioners to vacate the premises, against which, the petitioners filed revision petitions, which are still pending and the same can be disposed within the shortest possible time.

7.The learned Standing Counsel for the second respondent submits that the Assistant Commissioner has submitted a report in Na.Ka.No. 4594/2015/A8, dated 15.04.2016 and based on the said report, a notice under Section 80 of the H.R. & C.E. Act has been issued and thereafter, proceedings initiated. A counter affidavit has been filed in M.P.No.52 of 2016, stating that



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the impugned notice is not in accordance with Form-C of Rule 3(1) of G.O.No.

383, dated 29.01.1962 and the impugned notice correlates to Form-A and not 'C'. Hence, the proceedings initiated needs to be dropped. Further, the petitioner therein has filed an interim application before the Commissioner, seeking a direction to the Joint Commissioner to reject the said M.P. under Order VII Rule 11 C.P.C. The Temple filed counter affidavit stating that the provisions of Order VII Rule 11 C.P.C. will not apply to the facts of the case. The shop was never leased out and licence right alone has been given to the petitioner therein. The possession of the petitioner therein as a licensee, marred the artistic appearance of the Mandapam and the walls of the Temple. Further, based on the report of the Assistant Commissioner, proceedings have been initiated under Section 80 of the H.R. & C.E. Act. Since the licence has been terminated, the petitioner therein became an encroacher and is liable to be evicted. Mere quoting wrong provisions of law will not disentitle the Temple from proceeding with eviction and the same is not a ground to dismiss the eviction proceedings and the petitioners cannot take shelter under the same. The allegation that the possession of the petitioner therein protects the long corridor of the Temple is false. Considering the same, the Joint Commissioner dismissed the I.A., against which, revisions in R.P.Nos.6 to 17 of 2017/D2 and R.P.Nos.54 to 72 of 2017/D2 were filed before the Commissioner.



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8.The learned Standing Counsel further submits that the Commissioner, by order dated 08.07.2017, directed the Joint Commissioner to sort out the list of lessees, sub-tenants and encroachers and issue a fresh notice under Section 80 of the H.R. & C.E. Act in Form-C prescribed under Rule 3(1) of the Removal of Encroachment of Lands or Building Belonging to Religious Institutions Rules to the lessees as proceedings under Section 80 of the H.R. & C.E. Act cannot be initiated against the sub-tenants and encroachers and issue notice under Section 78 of the H.R. & C.E. Act in Form-A to the sub-tenants and the encroachers within seven days from the date of receipt of the said order. Thereafter, proceedings have been initiated and necessary forms have been issued under Section 80(2) of the H.R. & C.E. Act as well as Section 78(2) of the H.R. & C.E. Act. In this regard, a reference has been made as could be seen from Page Nos.33 to 38 of the typed set of papers. After enquiry, the Joint Commissioner, Trichy, vide order dated 31.01.2019 and 27.02.2019, allowed the petitions and ordered eviction, against which, the petitioners filed appeals in A.P.Nos.37 to 46 of 2019 and A.P.Nos.7 to 10 of 2020 D2 as well as Revisions in R.P.Nos.122 to 139 of 2019 D2 before the Commissioner, Chennai. Both the appeals and the revisions came to be dismissed on 04.05.2022. Thereafter, the process of eviction contemplated. Immediately, the petitioners have approached this Court. Due to the pendency of the Writ Petition, the eviction is kept on hold.



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9.Considering the rival submissions and on perusal of the materials, it is seen that the eviction process has already been commenced in the year 2016. Now, after several rounds, the issue has gone up and down and finally, the Commissioner has passed an order in both the appeals and the revisions on 04.05.2022, confirming the order passed by the Joint Commissioner, Trichy. The primary reason for the order is that, the Temple has to be maintained with its glory, retaining its artistic appearance and maintain religious atmosphere with serenity in the Temple and its precincts. The Temple is more than a millennium year old and it has got its own history and religious flavour and the artistic value is well known. There are long artistic Courtyards, which have to be retained.

10.Now, the petitioners have filed revision petitions in R.P.Nos.16 to 47 of 2022 before the first respondent. Be that as it may, the first respondent is directed to consider the petitioners' plea in accordance with law and dispose of the same within a period of three weeks from the date of receipt of a copy of this order. Till such time, the Executive Officer and the Temple authorities shall maintain status quo as on date.

11.With the above directions, this Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

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M.NIRMAL KUMAR, J.

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To

- 1.The Secretary,
Government of Tamil Nadu,
Tourism, Culture and Religious Endowments Department,
Secretariat, Chennai – 600 009.
- 2.The Joint Commissioner/Executive Officer,
Sri Ranganatha Swamy Devasthanam,
Srirangam.
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