



W.P.(MD)No.13811 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 30.06.2022

CORAM:

THE HONOURABLE **MR.JUSTICE M.NIRMAL KUMAR**

W.P.(MD)No.13811 of 2022
and WMP(MD) Nos.9812 and 9813 of 2022

Pandaram

..... Petitioner

Vs

1. The Joint Commissioner
Hindu Religious and Charitable Endowment,
Tirunelveli
2. The Assistant Commissioner
Hindu Religious and Charitable Endowment,
Tirunelveli.
3. Takkar,
Arulmighu Karpagavinayar Thirukovil,
Naranammalpuram
Thalayuthu Taluk
Tirunelveli Taluk

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the 3rd respondent in her order dated 23.06.2022 received by the petitioner on 24.06.2022 and quash the same as without jurisdiction and consequently



W.P.(MD)No.13811 of 2022

direct the respondents not to interfere in the peaceful possession of the impugned order mentioned property dated 23.06.2022

For Petitioner	: Mr.Ananth.C.Rajesh
For Respondents	: Mr.M.Lingadurai
No.1 and 2	Special Government Pleader
No.3	: M/s.M.Vijayarathinam

ORDER

This writ petition has been filed to call for the records of the 3rd respondent vide order dated 23.06.2022 received by the petitioner on 24.06.2022 and quash the same and consequently direct the respondents not to interfere in the peaceful possession of the impugned order mentioned property dated 23.06.2022.

2. The petitioner challenge the notice dated 23.06.2022 wherein it is endorsed that with the aid of the revenue and police officials the petitioner could be removed from his dwelling house in three cents in S.No.180/1, Naranammalpuram Taluk, Tirunelveli District.

3. The contention of the petitioner is that though notice is dated 23.06.2022 he came to know about that on 28.06.20202, when it was



W.P.(MD)No.13811 of 2022

WEB COPY

affixed in the door of his house. The petitioner further submits that without following the procedures as contemplated under section 78 of the Hindu Religious and Charitable Endowments Act, the Executive Officer, on his own, forcefully attempting to evict the petitioner from his dwelling house, hence he has filed the above writ petition.

4. The learned counsel appearing for the respondents 1 and 2 would submit that the petitioner admitted that in S.No.180/1 there is totally 1.16 cents land which stands in the name of the temple, which is not in dispute. Earlier the petitioner encroached the property of three cents wherein he had put up house, hence the petitioner is an encroacher. The petitioner has constructed a house without permission from the department and the Executive Officer has taken steps to remove the encroachment. This notice dated 23.06.2022 is only to put the petitioner an notice that the impending steps to be taken following Section 78 of the Hindu Religious and Charitable Endowments Act.



W.P.(MD)No.13811 of 2022

WEB COPY

5. The learned counsel appearing for the third respondent vehemently opposed the claim of the petitioner stating that the petitioner is an encroacher. The petitioner earlier filed a Writ Petition in WP(MD).No.7711 of 2022, wherein similar objections were made by the petitioner that he is been forcefully evicted. On 22.04.2022 this Court directed the petitioner to reply to the third respondent. Further, the third respondent was given liberty to take up a call as to whether the proceedings have to be completed in terms of Section 78 of the Hindu Religious and Charitable Endowments Act, 1959 or under the provisions of the Tamil Nadu Cultivating Tenants Protection Act, 1955. After this order, the petitioner has not so far given any reply or made any objections. In fact, when three cents of land were reclaimed, the petitioner pleaded that it is his dwelling house and some time may be given to him to remove his household articles and he will hand over possession, on the contrary petitioner filed the above petition making false allegations. She would further submit that the petitioner earlier filed a civil suit against one N.Sundaram, N.S.Sankaran and the Tamil Nadu Electricity Board as defendants, wherein the petitioner objected



W.P.(MD)No.13811 of 2022

Sundaram from getting electricity connection, on the other hand, the petitioner in his name got electricity connection for his dwelling house.

6. The learned counsel further drew the attention of this Court to the Judgment of the Civil Court in O.S. No.528 of 2013, wherein the petitioner examined him as PW.1 and one Murugesan was examined as PW.2 and marked 15 documents and on the side of the defendants three witnesses were examined and Exs.D1 to 6 were marked . The patta of the land stands in the name of the temple is marked as Ex.D.2. The Inspector of HR and CE department examined as D.W.3, who confirmed that the property in S.No.180/1 to the extent of 1.16 cents belongs to the temple. She further submitted that the land belongs to the temple, which is admitted and proved. The temple authorities now reclaimed 1.13 cents land belonging to the temple, which is now fenced. With regard to the three cents of land, where the petitioner is an encroacher, this notice was caused since the petitioner already agreed to hand over possession he was reminded of the same. Thereafter, the petitioner locked the house and went somewhere and hence, the notice was pasted on the door of the petitioner's house. Now, the petitioner has to hand over the possession of



W.P.(MD)No.13811 of 2022

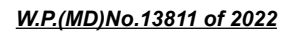
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three cents as agreed, failing which follow up action will be taken under Sections 77 and 78 of the HR and CE Act.

7. Heard the learned counsel appearing on either side and persued the materials available on record.

8. It is seen that the petitioner has admitted in the affidavit that 1.13 cents of land reclaimed by the temple authorities and fenced by them. The petitioner has got objection with regard to three cents, where he had put up dwelling house. Now the petitioner's grievance is that without following the provisions and due process of law, he may not be evicted.

9. In view of the same, the third respondent is directed to take steps along with the second respondent to remove the encroachment of the land from the petitioner and hand over the same to the temple authorities, of course after following due process of law.



No costs. Consequently connected miscellaneous petitions are also closed.

30.06.2022

Index: Yes/No
Internet : Yes/No
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Note: Issue order copy on 01.07.2022

To:

1. The Joint Commissioner
Hindu Religious and Charitable Endowment,
Tirunelveli
2. The Assistant Commissioner
Hindu Religious and Charitable Endowment,
Tirunelveli.



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W.P.(MD)No.13811 of 2022



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W.P.(MD)No.13811 of 2022

M.NIRMAL KUMAR, J.

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W.P.(MD)No.13811 of 2022

24.06.2022