



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.03.2022

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P(MD).No.16232 of 2021

and

W.M.P(MD).No.13077 of 2021

WEB COPY

Shanmugam Pillai

... Petitioner

Vs.

1.The Joint Commissioner,
Hindu Religious and Charitable Endowment,
Thanjavur-613 009,
Thanjavur District.

2.The Executive Officer,
Sri Panjanatheswara Devasthanam,
Thiruvaayaru-613 204.
Thanjavur District.

3.The Superintendent,
Sri Panjanatheswara Devasthanam,
Thiruvaayaru-613 204.
Thanjavur District.

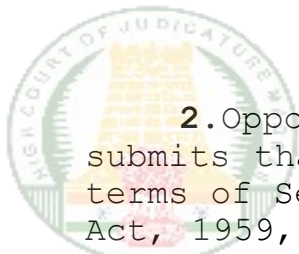
...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified, to call for the records of the third respondent, dated 16.03.2021 and quash the same as non application of mind and consequently direct the respondents not to interfere in the peaceful possession and enjoyment of the petitioner's property based on the petitioner's explanation dated 27.03.2021 within the stipulated period by this Court.

For Petitioner	: Mr.H.Velavadhas
For R1	: Mr.P.T.Thiraviam
	Government Advocate
For R3	: Mr.V.Meenkashisundaram
For R2	: No appearance.

ORDER

The petitioner has challenged the impugned notice, dated 16.03.2021 issued by the third respondent temple. The impugned notice was challenged on the ground that the third respondent had no authority to initiate proceedings under Section 78 (1) of the Hindu Religious and Charitable Endowments Act, 1959, against the petitioner. That apart, it is submitted that the petitioner had purchased the property from his vendor from 1956 and therefore, it is submitted that the proceedings under Hindu Religious and Charitable Endowments Act, 1959, are without jurisdiction.



2. Opposing the prayer, the learned counsel for the respondents submits that the notice can be issued by Joint Commissioner in terms of Section 78 of the Hindu Religious and Charitable Endowments Act, 1959, based on the report of the Assistant Commissioner. It is submitted that the petitioner's impugned notice may be quashed with liberty to the Joint Commissioner to initiate proceedings against the petitioner under Section 78 of the Hindu Religious and Charitable Endowments Act, 1959.

3. By way of rejoinder, the learned counsel for the petitioner submits that since the property is not a property of the temple, question of invoking Section 78 of the Hindu Religious and Charitable Endowments Act, 1959, does not arise.

4. I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the respondents.

5. The impugned notice issued by the third respondent temple are without jurisdiction and therefore liable to be quashed. At the same time, liberty is given to the first respondent Joint Commissioner to initiate appropriate proceedings, if so advised, against the petitioner. The petitioner also has an alternate remedy in terms of Section 79 (2) of the Hindu Religious and Charitable Endowments Act, 1959, against the proposed action to establish the right over the property. Therefore, the impugned notice is quashed by giving liberty to the first respondent to initiate appropriate proceedings under Section 78 of the Hindu Religious and Charitable Endowments Act, 1959, while preserving the right of the petitioner to approach the Civil Court to establish the rights over the property. The writ petition stands disposed of with the above observations. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

To
The Joint Commissioner,
Hindu Religious and Charitable Endowment,
Thanjavur-613 009, Thanjavur District.

+1 CC to M/s.SPL GP (SR-10618[F] dated 08/03/2022)

+1 CC to M/s.D.NALLATHAMBI, Advocate (SR-10722[F] dated 08/03/2022)

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RS(21.03.2022) 2P-4C