



W.P(MD).Nos.19454, 19479, 19525 and 19547 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 24.08.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P(MD).Nos.19454, 19479, 19525 and 19547 of 2022
and
W.M.P(MD).Nos.14197, 14198, 14219, 14220,
14253, 14255, 14266 and 14343 of 2022

W.P(MD).No.19454 of 2022

Abdul Karim

... Petitioner

Vs.

1.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Thanjavur District,
Thanjavur.

2.The Executive Officer,
Arulmigu Kailasanathar Temple,
Valoothoor,
Papanasam Taluk,
Thanjavur District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned proceedings in Na.Ka.No.1133/15/2010/E1, dated 10.08.2022, passed by the first respondent and quash the same.



WEB COPY



W.P(MD).Nos.19454, 19479, 19525 and 19547 of 2022

For Petitioner : MrG.Karnan
For R1 : Mr.P.T.Thiraviam
Government Advocate
For R2 : Mr.V.Chandrasekar
Standing Counsel

W.P(MD).No.19479 of 2022

Ashok Kumar

... Petitioner

Vs.

1.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Thanjavur District,
Thanjavur.

2.The Executive Officer,
Arulmigu Kailasanathar Temple,
Valoothoor,
Papanasam Taluk,
Thanjavur District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned proceedings in Na.Ka.No.1133/7/2010/E1, dated 10.08.2022, passed by the first respondent and quash the same.

For Petitioner : MrG.Karnan
For R1 : Mr.P.T.Thiraviam
Government Advocate
For R2 : Mr.V.Chandrasekar
Standing Counsel



W.P(MD).Nos.19454, 19479, 19525 and 19547 of 2022

W.P(MD).No.19525 of 2022

Mariyadoss

... Petitioner

Vs.

1.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Thanjavur District,
Thanjavur.

2.The Executive Officer,
Arulmigu Kailasanathar Temple,
Valoothoor,
Papanasam Taluk,
Thanjavur District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned proceedings in Na.Ka.No.1133/19/2010/E1, dated 10.08.2022, passed by the first respondent and quash the same.

For Petitioner	: MrG.Karnan
For R1	: Mr.M.Lingadurai Special Government Pleader
For R2	: Mr.V.Chandrasekar Standing Counsel

W.P(MD).No.19525 of 2022

Amsa Beevi

... Petitioner

Vs.

1.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Thanjavur District,
Thanjavur.



W.P(MD).Nos.19454, 19479, 19525 and 19547 of 2022

2. The Executive Officer,
Arulmigu Kailasanathar Temple,
Valoothoor,
Papanasam Taluk,
Thanjavur District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned proceedings in Na.Ka.No.1133/20/2010/E1, dated 10.08.2022, passed by the first respondent and quash the same.

For Petitioner	: MrG.Karnan
For R1	: Mr.M.Lingadurai Special Government Pleader
For R2	: Mr.V.Chandrasekar Standing Counsel

COMMON ORDER

The petitioners are challenging a notice, dated 10.08.2022, wherein, the petitioners were informed about the eviction under Section 79 (1) of the Hindu Religious and Charitable Endowments Act, 1959.

2. The contention of the petitioners is that one Seenivasa Iyengar, who purchased the property in S.No.43/1 to the extent of 1 acre through the registered sale deed, dated 05.10.1925. One Mr.Viyagulasamy Pillai has purchased the property from the said Seenivasa Iyengar, through registered sale deed, dated 29.02.1960. Subsequently, Mohammed Bhavudeen has purchased from Viyagulasamy Pillai through registered sale deed, dated



W.P(MD).Nos.19454, 19479, 19525 and 19547 of 2022

05.05.1990. This being so, in the year 2013, the first respondent issued a notice under Section 78 of the Hindu Religious and Charitable Endowments Act. The same was challenged by the petitioners and 9 others in W.P(MD)No. 17273 of 2014, which was dismissed by this Court on 19.11.2021 giving liberty to the petitioners to file a suit for declaration of title following Section 79 (2) of the Hindu Religious and Charitable Endowments Act. The petitioners, namely, Abdul Kareem filed a civil suit in O.S.No.306 of 2022, Ashok Kumar in O.S.No.274 of 2022, Mariyadoss in O.S.No.330 of 2022 and Asma Beevi in O.S.No.332 of 2022 and all are pending before the Additional Sub Court, Kumbakonam. This being so, the petitioners have received the notice of eviction. Hence, filed this writ petition.

3. The learned Government Advocate for the first respondent in W.P.(MD)Nos.19454 and 15479 and the learned Special Government Pleader for the first respondent in W.P.(MD)Nos.19525 and 1919547 of 2022 submits that earlier in the year 2014, Assistant Commissioner, Hindu Religious and Charitable Endowments Department sent a report to the Joint Commissioner, Hindu Religious and Charitable Endowments Department stating that the petitioners and 9 others are encroachers of the temple property. The Joint Commissioner, Hindu Religious and Charitable Endowments Department had initiated proceedings under Section 78 of the Hindu Religious and Charitable



W.P(MD).Nos.19454, 19479, 19525 and 19547 of 2022

Endowments Act. The petitioners have participated in the proceedings and thereafter, final orders have been passed by the Joint Commissioner, Hindu Religious and Charitable Endowments Department. Against which, the petitioners had filed writ petition in W.P(MD)No.17273 of 2014, this Court on the submission of the petitioner, denying the title of the property and directed them to follow Section 79 (2) of the Hindu Religious and Charitable Endowments Act. Thereafter, suit has been filed for seeking declaration of title.

4. The learned Standing Counsel for the second respondent submits that the order under Section 78 of the Hindu Religious and Charitable Endowments Act has been passed against the petitioners on 16.10.2013. Thereafter, the petitioners challenged the order under Section 78 of the Hindu Religious and Charitable Endowments Act by way of writ petition in W.P(MD)No.17273 of 2014, which came to be dismissed on 09.11.2021. The petitioners ought to have filed a revision petition before the Commissioner, Hindu Religious and Charitable Endowments Department invoking Section 21 of the Hindu Religious and Charitable Endowments Act, within a period of 90 days or filed a suit within a period of six months. In this case, both not done. After issuance of impugned order, they approached this Court. As per Section 79 (2) of the Hindu Religious and Charitable Endowments Act, the



W.P(MD).Nos.19454, 19479, 19525 and 19547 of 2022

suit should be insisted in such a way that religious institution has no title to the property. In this case it is not so. Hence, the pendency of the civil suit would no way affect the first respondent to take steps to remove the encroachments of the temple property.

5. Considering the submission and on perusal of the material, it is seen that this is second round of litigation. Earlier, in the year 2013, notice under Section 78 of the Hindu Religious and Charitable Endowments Act has been issued, proceedings have been initiated against the petitioners and the petitioners participated in the proceedings and thereafter received adverse orders. Challenging the same, they have filed writ petition in W.P(MD)No. 17273 of 2014, this Court kept the writ petition pending for more than 7 years and finally dismissed the writ petition on 09.11.2021 with certain observations. The petitioners have not taken any immediate steps. On the other hand, they took time in filing the suit. Now, after the first respondent taken steps to remove the encroachments, they filed this petition, which cannot be entertained. Since the petitioners have already initiated civil suit, the petitioners are to work out their remedy before the concerned civil Court.



W.P(MD).Nos.19454, 19479, 19525 and 19547 of 2022

6. With the above observations, these writ petitions stand disposed of.

Consequently, connected miscellaneous petitions are closed.

24.08.2022

Index : Yes / No
Internet : Yes/ No
sn

Note: Issue order copy on 26.08.2022.

To

- 1.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Thanjavur District,
Thanjavur.
- 2.The Executive Officer,
Arulmigu Kailasanathar Temple,
Valoothoor,
Papanasam Taluk,
Thanjavur District.

M.NIRMAL KUMAR, J.



WEB COPY



W.P(MD).Nos.19454, 19479, 19525 and 19547 of 2022

sn

W.P(MD).Nos.19454, 19479,
19525 and 19547 of 2022

24.08.2022