



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.02.2022

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P(MD).No.5716 of 2018
and
W.M.P(MD).No.5607 of 2018

Chellammal

... Petitioner

Vs.

1.The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
Ellis Nagar, Madurai.

2.Arulmighu Mahadevasamy Kovil,
Madurai through its Executive Officer,
No.10-M, Raja Mill Road,
Madurai-625 001.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first respondent to consider and pass appropriate orders in the petition dated 10.02.2018 filed by the petitioner herein for setting aside the exparte final order passed by the first respondent in Miscellaneous Petition No.129 of 2017, dated 19.01.2018.

For Petitioner	: No Appearance
For R1	: Mr.P.T.Thiraviam Government Advocate
For R2	: Mr.S.Manohar

ORDER

This writ petition has been filed by the petitioner for a writ of Mandamus to direct the respondents to consider and pass appropriate orders on the petition filed by the petitioner before the first respondent, dated 10.02.2018 against an order, dated 19.01.2018 in M.P.No.129 of 2017. The aforesaid order, dated 19.01.2018, was passed under Section 78 of the HR&CE Act, by directing the petitioner to vacate the property of the second respondent. The petitioner appears to have filed a petition by invoking Order 9 Rule 13 of CPC r/w Section 151 of CPC to recall the order, dated 19.01.2018, by the first respondent.



2. I have considered the arguments advanced by the learned counsel for the respondents. No representation on behalf of the petitioner.

3. It is noted that in exercise of power under Section 116 (2) of HR&CE Act, the Government has framed Removal of Encroachments on Lands or Buildings Belonging to Religious Institution Rules. As per Rule 5, the provisions of the Rules issued under Section 116 (2) (iii) provisions of the Code of Civil Procedure, 1908 (Central Act V of 1908) and the Civil Rules of Practice and Circular Orders shall apply, as far as practicable, for appearance of pleaders and to affidavits, production of documents, examination of witnesses, taking of oral evidence, proof by affidavits, filing of exhibits, issue of Commissions, return of documents not admitted in evidence and other connected matters. shall apply to the conduct of enquiries under Section 78(4) to 81 (3) of the Act.

4. Considering the above, I direct the first respondent to number the petition filed by the petitioner and pass appropriate orders on merits and in accordance with law within a period of four weeks from the date of receipt of copy of this order. The Writ Petition stands disposed of with the above direction. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To
The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Ellis Nagar, Madurai.

+1 CC to M/s.S.MANO HAR, Advocate (SR-6726[F] dated 17/02/2022)
+1 CC to M/s.SPL GP (SR-6498[F] dated 16/02/2022)

W.P (MD) .No.5716 of 2018
15.02.2022