



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.03.2022

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P (MD) .Nos.11266 to 11270 of 2018
and
W.M.P. (MD) .Nos.10285 to 10293 of 2018

W.P. (MD) .No.11266 of 2018:

Kosimani

... Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable
Endowments Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai- 600 034.

2.The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
Mayiladuthurai.

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

4.Arulmigu Kanthanatha Swamy Thirukkivil,
Rep. by its Executive Officer/
Deputy Commissioner,
Erakaram,
Kumbakonam 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 pertaining to the impugned order passed by the third respondent in Na.Ka.No.2647/2015-5/A7, dated 03.05.2018 and the order passed by the second respondent in Miscellaneous Petition No.55/2013, dated 10.04.2015 and quash the same.



For Petitioner

For R1 to R3

For R4

: Mr.M.Saravanan

: Mr.P.Subbaraj

Special Government Pleader

: Mr.V.Chandrasekar

W.P. (MD) .No.11267 of 2018:

Chinnammal

... Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable
Endowments Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai- 600 034.

2.The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
Mayiladuthurai.

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

4.Arulmigu Kanthanatha Swamy Thirukkivil,
Rep. by its Executive Officer/
Deputy Commissioner,
Erakaram,
Kumbakonam 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 pertaining to the impugned order passed by the third respondent in Na.Ka.No.2647/2015-7/A7, dated 03.05.2018 and the order passed by the second respondent in Miscellaneous Petition No.54/2013, dated 10.04.2015 and quash the same.

For Petitioner

For R1 to R3

For R4

: Mr.M.Saravanan

: Mr.P.Subbaraj

Special Government Pleader

: Mr.V.Chandrasekar



W.P. (MD) .No.11268 of 2018:

Kesavamoorthy

... Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable
Endowments Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai- 600 034.

2.The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
Mayiladuthurai.

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

4.Arulmigu Kanthanatha Swamy Thirukkivil,
Rep. by its Executive Officer/
Deputy Commissioner,
Erakaram,
Kumbakonam 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 pertaining to the impugned order passed by the third respondent in Na.Ka.No.2647/2015-8/A7, dated 03.05.2018 and the order passed by the second respondent in Miscellaneous Petition No.53/2013, dated 10.04.2015 and quash the same.

For Petitioner

: Mr.M.Saravanan

For R1 to R3

: Mr.P.Subbaraj

Special Government Pleader

For R4

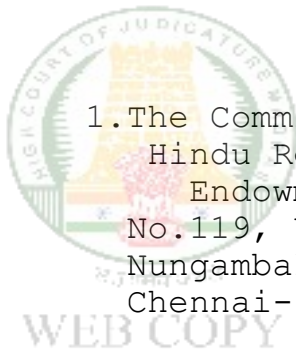
: Mr.V.Chandrasekar

W.P. (MD) .No.11269 of 2018:

Manikandan

... Petitioner

Vs.



- 1.The Commissioner,
Hindu Religious and Charitable
Endowments Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai- 600 034.
- 2.The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
Mayiladuthurai.
- 3.The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Department,
Kumbakonam,
Thanjavur District.
- 4.Arulmigu Kanthanatha Swamy Thirukkivil,
Rep. by its Executive Officer/
Deputy Commissioner,
Erakaram,
Kumbakonam 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 pertaining to the impugned order passed by the third respondent in Na.Ka.No.2647/2015-10/A7, dated 03.05.2018 and the order passed by the second respondent in Miscellaneous Petition No.50/2013, dated 10.04.2015 and quash the same.

For Petitioner	: Mr.M.Saravanan
For R1 to R3	: Mr.P.Subbaraj Special Government Pleader
For R4	: Mr.V.Chandrasekar

W.P. (MD) .No.11270 of 2018:

Prasanth ... Petitioner

Vs.

- 1.The Commissioner,
Hindu Religious and Charitable
Endowments Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai- 600 034.



2.The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
Mayiladuthurai.

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

4.Arulmigu Kanthanatha Swamy Thirukkivil,
Rep. by its Executive Officer/
Deputy Commissioner,
Erakaram,
Kumbakonam Taluk,
Thanjavur District.

...Respondents

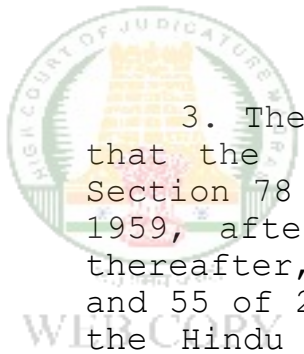
Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, forbearing the respondents from evicting the petitioner from his house property situate in R.S.No.260/2, Old R.S.No.107/2 of Erakaram Village, Kumbakonam Taluk, Thanjavur District without due process of law.

For Petitioner	: Mr.M.Saravanan
For R1 to R3	: Mr.P.Subbaraj
	Special Government Pleader
For R4	: Mr.V.Chandrasekar

COMMON ORDER

The petitioners have challenged the respective impugned orders passed under Section 78 (4) of the Hindu Religious and Charitable Endowments Act, 1959, by the second respondent Joint Commissioner and the consequential eviction proceedings under Section 79 of the Hindu Religious and Charitable Endowments Act, 1959, by the third respondent Assistant Commissioner.

2. The case was argued by the learned counsel for the petitioner to make it seems, as if the proceedings under Section 78 (4) of the Hindu Religious and Charitable Endowments Act, 1959 were passed without following the due safeguard under Section 78 (2) of the Hindu Religious and Charitable Endowments Act, 1959. On a query as to why the aforesaid order passed under Section 78 (4) of the Hindu Religious and Charitable Endowments Act, 1959, was not challenged on earlier action, it is submitted that the petitioners are illiterate and were unaware of their legal rights. It is therefore submitted that the consequential proceedings under Section 79 of the Hindu Religious and Charitable Endowments Act, 1959, by the third respondent was also liable to be interfered.



3. The learned counsel for the fourth respondent temple submits that the respective petitioners were issued with a notice under Section 78 (2) of the Hindu Religious and Charitable Endowments Act, 1959, after a report was furnished to the Joint Commissioner and thereafter, the order came to be passed in the M.P.Nos.50, 53, 54 and 55 of 2013 and the consequential proceedings under Section 79 of the Hindu Religious and Charitable Endowments Act, 1959, by the Assistant Commissioner in accordance with the law.

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

5. The respective petitioners have been in possession of the property for a predominantly long period even prior to passing of orders under Section 78 (4) of the Hindu Religious and Charitable Endowments Act, 1959. If the petitioners claim that the property are their private property and not a temple property, it is open for the petitioners to file a suit before the civil Court subject to law of limitation. On the other hand, it is noted that after suffering an order under Section 79 of the Hindu Religious and Charitable Endowments Act, 1959, the petitioners have rushed to this Court. The petitioner cannot seek for reset the clock by citing the alleged failure to comply with the requirements of Section 78(2) of the Hindu Religious and Charitable Endowments Act, 1959, inasmuch as orders have been passed under Section 78(4) of the Hindu Religious and Charitable Endowments Act, 1959. The petitioners have taken a chance and therefore cannot continue to be in possession of the property of the temple. I do not find any merits in the present writ petition. Therefore, these writ petitions are liable to be dismissed. However, liberty is given to the petitioner to work out their remedy in accordance with law before the appropriate authority within a period of thirty days from the date of receipt of copy of this order.

6. The writ petitions stand dismissed with the above observations. No costs. Consequently, the connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)



To

1.The Commissioner,
Hindu Religious and Charitable
Endowments Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai- 600 034.

2.The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
Mayiladuthurai.

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

+1CC to M/s.V.CHANDRASEKAR, Advocate (SR-10426[F] dated 07/03/2022)

+2 CC to M/s.R.SUBRAMANIAN, Advocate (SR-10508[F] dated 08/03/2022)

+1 CC to M/s.SPL GP (SR-10614[F] dated 08/03/2022)

W.P(MD).Nos.11266 to 11270 of 2018
07.03.2022

SN

MS/25.03.2022/7P.8C