BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	Pronounced on
29.11.2022	13.12.2022

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.(MD)No.23996 of 2022

A.Radhakrishnan .. Petitioner

Versus

1.The Secretary to Government,
Tourism Culture & Endowments Department,
Secretariat, Chennai - 600 009.

2.The Commissioner of Revenue Administration,
Chepauk, Chennai - 600 005.

3.The Commissioner,
Hindu Religious & Charitable Endowments,
119, Nungambakkam High Road,
Chennai- 600 034.

4.The Inspector General of Police,
South Zone,
Madurai.

5.The Inspector General of Registration,
100, Santhome High Road,
Chennai - 600 024.

6.The District Collector,
Madurai.

7.The District Collector,
Sivagangai.

8.Srila Sri Hariharar Desiga Gnanasambantha
Paramacharya Swamingal, Atheenakarthar,
Thiruganasambandar Mut @ Madurai Atheenam,
Madurai.

9.N.K.R.Shanmugam

10.M/s.South India Mint and Aromatic Products Ltd.,
Represented by its Founder and Chairman,
Mr.N.K.R.Shanmugam,
S/o.A.N.Ramalinga Chettiar,
14, Vanidasan Street,
Kamaraj Nagar, Puducherry - 11.

11.M/s.Kuhaikaana Agro Industries Pvt. Ltd.,
Represented by its Directors,
Mr.Ramalingam Shanmugam Elavarasan,
S/o.N.K.R.Shannmugam &
Vanjiappan Muthurathinam,
S/o.C.Muthurathinam,
Having its registered office at New No.35, Old No.10/2,
Vanniar Street, Choolaimedu,
Chennai - 600 004. .. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to secure and safeguard all the properties of 8th respondent by considering the petitioner's representations dated 08.01.2020 and 20.09.2022.

For Petitioner : Mr.A.Radhakrishnan
Party-in-person

For Respondents : Mr.P.Subbaraj
Special Government Pleader for R1 to R3, R5 to R7

Mr.T.Senthilkumar
Additional Public Prosecutor for R4

Mr.R.M.Arun Swaminathan for R8

O R D E R

R. MAHADEVAN, J.

The present *lis* highlighting the unauthorized alienation and encroachments on the properties belonging to Madurai Aadheenam, depicts the callous attitude on the part of the respondent authorities in conducting inspection and carrying out their responsibilities in supervising the administration of Mutts under the Tamil Nadu Hindu Religious and Charitable Endowments Act 1959, (in short, "the HR&CE Act").

2.At the first instance, it would be apropos to note the long standing history of Madurai Aadheenam in brief and its role in the Saivite culture, besides the duties and responsibilities of its trustee.

2.1. Madurai Adheenam has its origin to around 6th Century AD and was rejuvenated and gained prominence during the period of Thirugnanasambandhar, one of the 63 Nayanmars who spent his entire life for upliftment of saivism and Tamil. The thevarams, which are still sung with praise in the present times, stand testimony to his devotion and the importance he gave for Tamil. According to literary records, Madurai Adheenam has seen debates between scholars of jainism and saivism, and has been a space for interaction between the heterodox and orthodox religions. In such debate, Nayanmar Thirugnanasambandhar succeeded against jain scholars and Madurai Aadheenam has gained social, religious and literary prominence since then. This Adheenam has been the guiding light of saiva sindhanta philosophy for centuries together. Crores worth of properties, both movable and immovable come under the Adheenam, in addition to the invaluable antiques with the temples under its control.

2.2. After the enactment of Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, this Adheenam has come under the general supervision of the HR&CE department. Definition of "religious institution" under section 6 (18) of the HR&CE Act includes a "Mutt" and the definition of an "endowment" under section 6 (17) means all properties belonging to or endowed for support of the Mutt. The Adheenam is headed by a hereditary trustee who administers the affairs of the Mutt under the supervision of the HR&CE Department.

2.3. The trustee of any religious institution should take certain standard of care in administering the affairs of the institution and applying its funds under section 28 of the HR&CE Act. For seamless administration of the religious institution, the trustee is clothed with the power to do all things necessary to discharge his duties. Every Mutt is required to maintain a register with particulars related to administration, including all the title deeds and documents which are also scrutinized annually. Properties belonging to and endowed on the Mutt have to be utilized in a manner that is beneficial to and towards the purposes of the Mutt. Section 34 of the HR&CE Act, protects the immovable properties of the Mutt from being used in a manner prejudicial to its interests, by declaring any "exchange, sale or mortgage and any lease exceeding term of five years" to be a nullity, if not sanctioned by the

Commissioner as necessary and beneficial to the religious institution. Even if such conveyance is sanctioned, sub-section (2) allows the Commissioner to impose conditions for the utilization of the amount in lieu of such transfer. Thus, any conveyance in contravention of section 34 of the HR&CE Act, is illegal and *non-est*.

Facts of the case:

3. The petitioner stated that the properties of the 8th respondent mutt are all endowed properties to its disciples. To manage the said properties and yield the income to the eighth respondent, there was a Power of Attorney executed to a third party, who inturn, entered into a lease agreement dated 08.02.2018 with the respondents 9 to 11 for a lesser value, thereby causing serious prejudice to the mutt, which is in violation of section 34 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (in short, "the HR&CE Act"). Pointing out the same, the petitioner made representations to the third respondent on 08.01.2020 and thereafter, to all the respondents on 20.09.2022. On receipt of the same, the second respondent directed the seventh respondent to take swift action to safeguard the properties of the 8th respondent. Even thereafter, nothing progressed. Hence, the petitioner has preferred this writ petition in the form of public interest litigation, to issue a writ of mandamus, directing the respondents to secure and safeguard all the properties of the eighth respondent Mutt, based on his representations dated 08.01.2020 and 20.09.2022.

Pleadings of the parties:

4. The learned counsel appearing for the petitioner submitted that contrary to section 34 of the HR&CE Act, the endowed properties have been mismanaged by the respondents 9 to 11, thereby causing serious prejudice to the eighth respondent mutt. Though the same was brought to the knowledge of the respondent authorities, no fruitful action has been taken on the same. Therefore, the learned counsel prayed for appropriate direction to the respondent authorities in this regard.

5. Upon notice, the eighth respondent filed a detailed counter affidavit, wherein, it is *inter alia* stated that the present pontiff of Madurai Adheenam is the 293rd pontiff, who took over the same on 23.08.2021. According to him, the Mutt is administering four temples in Thanjavur and Tiruvarur Districts, viz., Agniswarar Temple, Kanjanur, Sakthinatheswarar Temple, Thiruppurambiyam, Kaichinam Kaichineswarar Temple and Pannakaparanar Temple. Apart from these temples, it has punja and nanja lands in Madurai, Thanjavur, Nagapattinam, Virudhunagar, Sivagangai, Tirunelveli, Thoothukudi and Dindigul Districts, besides having buildings in some of these places, which are rented out. The counter affidavit further proceeds to state that the then pontiff had executed a power of attorney in favour of the ninth respondent vide Document No.1196/2007 dated 12.04.2007 on the file of the Joint-1, SRO, Madurai South, in respect of the land situated at Madurai measuring an extent of 1191 acres. Based on the same, the ninth respondent had leased out the said land to the tenth respondent for a period of 27 years, i.e. until 14.07.2036, vide Document

No.5073/2009 dated 15.07.2009, based on which, the tenth respondent sub-leased the land to the eleventh respondent vide Document No.735/2018 dated 08.02.2018. Upon knowing the same, the then pontiff himself revoked the said general power of attorney executed in favour of the ninth respondent, vide Doc.No.18/2019 dated 02.01.2019; and he also lodged complaint on 11.06.2018 before the Joint Commissioner, HR&CE Department, Madurai under section 78 of the HR&CE Act. Thus, according to the eighth respondent, the entire transactions were made during the period of 292nd pontiff of Madurai Aadheenam. It is also stated in the counter affidavit that after taking charge, the present pontiff has taken effective efforts to get back all the encumbered properties and also following up on the complaint lodged for recovery of the properties; and that the ninth respondent, even after revocation of the power of attorney, has not vacated the properties and he is also not paying any rent to the mutt. Thus, according to the eighth respondent, they are taking earnest steps to evict the private respondents 9 to 11 from the properties, however, without knowing the actual facts, the petitioner has preferred the present writ petition.

6. The learned Special Government Pleader appearing for the respondents 1 to 3 and 5 to 7 would submit that the power of attorney executed by the 292nd pontiff in favour of the ninth respondent was revoked on 02.01.2019, as the General Power of Attorney (GPA) Holder acted contrary to the interests of the mutt; and the said revocation of the general power of attorney was duly reflected in the encumbrance certificate. The learned counsel would further submit that upon receipt

of the complaint made on behalf of the eighth respondent, the Joint Commissioner, HR&CE, Madurai, passed an order dated 09.03.2022 under section 78 of the HR&CE Act, with respect to the properties measuring an extent of 1191 acres in Mukkudi and Erkkalavelur Village, Sivagangai District. Challenging the said order, the 10th respondent preferred an appeal, which is pending. Therefore, the learned counsel submitted that the respondent authorities are taking steps to recover the mutt properties in accordance with the provisions of the HR&CE Act.

7. Reiterating the averments made in the counter affidavit, the learned counsel appearing for the 8th respondent submitted that as per section 22A(1)(ii) of the Tamil Nadu Registration (Amendment) Act, 1908, the properties belonging to any religious institution including mutt cannot be registered without the NOC from the competent authority. Further, according to section 22A of the Registration Act, 1908, the Governor of Tamil Nadu declares the document pertaining to conveyance of properties belonging to any religious institutions including temples, mutts, or specific endowments, as opposed to public policy. Accordingly, upon knowing the illegal lease deed executed by the ninth respondent, the then pontiff has cancelled the power of attorney executed by the eighth respondent in favour of the ninth respondent. Even after revocation of the said power of attorney, the ninth respondent was not evicted from the property and he is not paying the rent to the mutt for the past 15 years. The learned counsel further submitted that as per the legal maxim "delegata potestas non potest delegari" no delegated powers can be further delegated and hence, the sub

lease executed by the private respondent is *void ab initio*. It is also submitted that if the respondents 9 to 11 are vacated from the subject properties, the mutt is ready to utilize the land vested with them by the devotees to establish an educational institution for a noble cause. Therefore, the learned counsel prayed for appropriate direction to the respondent authorities to vacate the private respondents 9 to 11 from the properties belonging to the eighth respondent.

8. This court considered the pleadings, submissions and materials available on record. Notice to the respondents 9 to 11 is dispensed with, in view of the directions to be issued to the respondent authorities to provide due opportunity of hearing to all the parties before taking any action.

9. According to the petitioner, several properties endowed to the mutt have been mismanaged by the respondents 9 to 11, thereby causing loss to the eighth respondent and the same is contrary to section 34 of the HR&CE Act. It is the specific case of the eighth respondent that the 292nd pontiff executed a power of attorney dated 12.04.2007 in favour of the ninth respondent, who inturn leased out the properties to the tenth respondent on 15.07.2009, for a period of 27 years. Based on the same, the tenth respondent sub-leased the same to the eleventh respondent on 08.02.2018. As the said act of the private respondents 9 to 11 is contrary to the provisions of the HR&CE Act, the then pontiff revoked the general power of attorney on 02.01.2019. The reasons stated in the counter affidavit by the eighth respondent

for revocation of the earlier power of attorney by executing a cancellation deed dated 02.01.2019 are extracted below for ready reference:

> *"(i)The lease has been executed for the period of more than 5 years which is against the provision of section 34 of the Tamil Nadu HR&CE Act.*
>
> *(ii)Sub lease cannot be granted by the lessee without the consent of the principal, but the lessee i.e., the 10th respondent sub leased the property to the 11th respondent.*
>
> *(iii)Based on the Power of Attorney dated 12.04.2007, the lessee himself executed a lease agreement in favour of his own company for a period of 99 years which also clearly violates section 34 of the Tamil Nadu HR&CE Act.*
>
> *(iv)Advance/security deposit was fixed as only Rs.5 lakhs for the large extent of 1191 acres of land.*
>
> *(v)Annual rent was fixed as only Rs.1 lakh for the large extent of 1191 acres of land.*
>
> *(vi)The lease agreement states that it can be extended for the further period after the expiry of the lease period without consent of the principal.*
>
> *(vii)The lease agreement states that the property tax, other taxes, EB Deposits by the lessor which is against the right of the property owners.*
>
> *(viii)The lease agreement states that the lessee cannot interrupt or disturb the lessor. But in cases of illegal usage of the land, such as illegal sand mining, the land owner's right to protect his property cannot be curtailed.*
>
> *(ix)The lease agreement also states that the lessor can subdivide, plan, sign in patta transfer and execute other deeds, assignments. If such permissions are granted, the mutt land will get swindled by the 9th respondent.*
>
> *(xi)The lessee acted against the interest of the Mutt and have not paid any rent as agreed by him to the mutt."*

Stating so, the eighth respondent submitted that even after revocation of power of attorney, the respondents 9 to 11 have not vacated the properties and handed over the same to the eighth respondent mutt. The request made to the HR&CE officials did not evoke any positive response.

10. At this juncture, it is relevant to look into the relevant provisions of law with respect to the issue involved herein.

10.1. The Commissioner, HR and CE Department is conferred with powers to supervise the administration of the Mutts and ensure that the properties are not alienated or used for the purposes that are prejudicial to the interests of the Mutt. Section 33 provides for the following powers of inspection:

> ***"33. Inspection of property and documents.—***
>
> *(1) [The Commissioner] or any officer or other person deputed by the Commissioner] in this behalf, may, with due regard to the religious practice or usage of the institution, <u>inspect all movable and immovable property belonging to, and all records, correspondence, plans, accounts and other documents relating to, religious institution</u>.*
>
> *(2) It shall be the duty of the trustee of the institution concerned and all officers and servants working under him, his agent and any person having concern in the administration of the institution, to afford all such assistance and facilities as may be necessary or reasonably required in regard to any inspection made in pursuance of sub-section (1) and also to produce for inspection any movable property or document referred to in sub-section (1) and to furnish such information as may be necessary in connection with such inspection, if so required.*
>
> *(3) Where in the course of such inspection, it appears that the trustee of the institution concerned, or any of the officers or servants working under him, his agent or any other person having concern in the administration of the institution, past or present, has misappropriated or fraudulently retained any money or other property or incurred irregular, illegal or improper expenditure, [the Commissioner may], after giving notice to the trustee or person concerned to show cause why an order of surcharge should not be passed against him and after considering his explanation, if any, by order, certify the amount so lost and direct the trustee or such person to pay within a specified time such amount personally and not*

from the funds of the institution. The procedure laid down in sub-section (3) to (7) of section 90 shall apply to the recovery of the amount of surcharge."

10.2. As indicated in the preceding paragraphs, the Commissioner also exercises control over alienation of immovable property belonging to the Mutt in terms of section 34 and the same is reproduced below for the sake of specificity.

"***34. Alienation of immovable trust property.—***
(1) Any exchange, sale or mortgage and any lease for a term exceeding five years of any immovable property, belonging to, or given or endowed for the purpose of, any religious institution shall be null and void unless it is sanctioned by [the Commissioner] as being necessary or beneficial to the institution:

Provided that before such sanction is accorded, the particulars relating to the proposed transaction shall be published in such manner as may be prescribed, inviting objections and suggestions with respect thereto; and all objections and suggestions received from the trustee or other persons having interest shall be duly consider by [the Commissioner]:

[Provided further that the Commissioner shall not accord such sanction without the previous approval of the Government].
Explanation.—Any lease of the property above mentioned through for a term not exceeding five years shall, if it contains a provision for renewal for a further term (so as to exceed five years in the aggregate), whether subject to any condition or not, be deemed to be a lease for a period exceeding five years.

(2) When according such sanction, [the Commissioner] may impose such conditions and give such direction, as [he] may deem necessary regarding the utilization of the amount raised by the transaction, the investment thereof and in the case of a mortgage regarding the discharge of the same within a reasonable period.

(3) A copy of the order made by [the Commissioner] under this section shall be communicated to the Government and to the trustee and shall be published in such manner as may be prescribed.

(4) The trustee may, within three months from the date of his receipt of a copy of the order, and any person having interest may within three months

from the date of the publication of the order [appeal to the Court] to modify the order or set it aside.

[(4-A) The Government may issue such directions to the Commissioner as in their opinion are necessary, in respect of any exchange, sale, mortgage or lease of any immovable property, belonging to, or given or endowed for the purpose of, any religious institution and the Commissioner shall give effect to all such directions].

(5) Nothing contained in this section shall apply to the imams referred to in section 41.”

10.3. Apart from these general restrictions on utilization of the property belonging to Mutts, Chapter VII concerns specifically with encroachments and its removal from the properties of religious institutions. Section 77 contains a *non-obstante* clause, which applies notwithstanding section 34 concerning alienation. Section 34 is a regulatory provision, while section 77 is prohibitory in nature. Section 77 prohibits certain conveyances by trustees of religious institutions and the same runs thus:

"77. Transfer of lands appurtenant to or adjoining religious institutions prohibited except in special cases.—

(1) <u>Notwithstanding anything contained in section 34, no trustee of a religious institution shall lease or mortgage with possession or grant a licence for the occupation of</u>—

(a) any land belonging to the religious institution which is appurtenant to or adjoins the religious institution, or any sacred tank, well, spring or water course, appurtenant to the religious institution whether situated within or outside the precincts thereof, or

(b) any space within or outside the prakarams, mantapams, courtyards or corridors of the religious institution ; Provided that nothing contained in this sub-section shall apply to the leasing or licensing of any such land or space for the purpose

of providing amenities to pilgrims or of vending flowers or other articles used for worship or of holding for specified periods, fairs or exhibitions during festivals connected with the religious institution.

(2) Any lease or mortgage with possession or licence in contravention of the provisions of sub-section (1) shall be null and void.

(3) Notwithstanding anything contained in sub-section (1) or (2), [the Commissioner] may sanction the lease or mortgage with possession or granting of a licence for the occupation of any such land or space as is mentioned in sub-section (1) and situated outside the precincts of a religious institution for any purpose other than a purpose mentioned in the proviso to sub-section (1)."

10.4. Thus, any encroachment falling under the umbra of section 77 are dealt with in accordance with the section 78 to 82. If the Assistant Commissioner, on his own volition or upon a complaint, has knowledge of any encroachment, he/she is required to intimate the Joint Commissioner along with a report. Upon the perusal of the report, the Joint Commissioner conducts an enquiry, after issuing notice hears the alleged encroacher and other parties interested. If the allegation of encroachment is found to be true, the Joint Commissioner has to direct removal of such encroachment in the manner provided thereunder.

11. Despite such powers on the HR&CE department, there are multiple instances of encroachment on lands belonging to religious institutions. This has been frowned upon by this Court in ***V. Muthusamy v. The Joint Commissioner of HR&CE Department, Chennai, [2018-1-Writ.LR.530] and P. Lakshamanan and Others v. the Superintendent of Police, Sivagangai [(2018) 3 MLJ 202]***

to name a few. Recently, in a decision in ***suo moto WP.No.574 of 2015 and WP(MD)No.24178 of 2018 dated 07.06.2021, reported in (2021) 5 MLJ 413****,* rendered by one of us (RMDJ), while reiterating the purpose of lands belonging to temples and religious institutions and emphasising the importance of the state's responsibility in securing lands, it was observed as follows:

> "*30. At this juncture, it is needless to state that the properties of the temples/religious institutions belonging to them have to be maintained properly in order to derive more income so as to spend it for the betterment of the temples. The custodians of the temple properties are the trustees, HR&CE department and mutts, who must keep in mind the object and the reason behind such donations made to the temples. <u>The endowments are created and the lands are donated in love, in faith and in satisfaction towards the one's contribution to the religion they profess, for the temples to be selfsufficient to perform all every day rituals, to ensure that people who profess and practice the same ideology and belief, are uplifted economically and spiritually and for the subsistence of their religion.</u> A duty is cast on the Commissioner under Section 23, to ensure that such temples and endowments are properly administered and that their income is duly appropriated for the purposes for which they were founded or exist and therefore, whenever any order is passed, the object of the endowment is not to be forgotten. Section 29 of the Act lays down the preparation of register for all institutions by the Commissioner. That apart, the Joint Commissioners are clothed with the power to retrieve the temple lands from the encroachers by exercising the powers under Sections 78, 79 and 80. But, the officials have not properly exercised the power conferred on them and they are in dereliction of duties and responsibilities assigned to them. At least from now, the HR&CE Department should act diligently to retrieve all the properties under the encroachments.*
>
> *... ... ...*
>
> *42. The noble object behind the donation of the properties/lands in favour of the temples is only to protect the temples and to enable it to survive for several long years along with the heritage and culture of our land to the future generation. Throwing to winds, the temple properties/lands are being encroached, misappropriated and mishandled. Though several directions were issued by this Court, the*

process of identification of encroached lands and retrieval have not been undertaken swiftly and the officials are determined to do away with the lands for political or appeasement reasons contrary to the object of grant and in detrimental to the interest of the temples, which can only be termed as a step to slowly diminish the religious belief, tradition, culture and practices.....

But, the statistical record reveals that out of 5.25 lakh acres of land, only 4.78 lakh acres are available as of now and the balance acres of land are in the hands of encroachers. It is significant to mention here that the HR & CE department is the custodian and administrator of the temples and its properties. But this department, to the knowledge of this Court, has not purchased even a small portion of land for the benefit of any temple. As administrator, the role of this department is much more responsible and the officials are culpable and liable to be punished in case of breach of their responsibility. The administrative right to deal with the temple properties is only to preserve and augment more revenue, implying that the temple lands ought not be alienated or given away. It is to be noted that the Government cannot claim right over the temple lands and the same cannot be a part of any Government scheme, otherwise, the very object of the creation of the HR & CE department would get defeated. ...."

In the aforesaid decision, this court has ultimately, issued as many as 75 directions and the followings are with respect to recovery of temple lands:

"55...

<u>LAND REVENUE, RENT, ARREARS, ENCHROACHMENTS ETC</u>

(31) The District Committees must take stock of the lands of all the temples within their respective District, list out the total extent with survey number and door number, vacant or leased, nature of land i.e agricultural or otherwise, current rent, date of fixation of rent, current market rent, name of lessee/tenant, duration of lease, whether authorised by the Commissioner, if the period of lease is beyond 5 years, nature of the lessee whether individual, firm or company and in case, lessee is an individual, then the religion of such individual, arrears if any of each lessee with period of default, list of cases pending before any forum or Court regarding the rent or entitlement to lease, list of encroachers including sub-tenant and sub-lessees and status of action

taken to remove the encroachers, list of temple lands conveyed and action taken to retrieve them and status of the criminal complaint lodged against illegal sale of temple land, if any and document the same properly. A detailed report also be filed before this Court within a period of twelve (12) weeks.

...

(33) The state Government or the Commissioner of the HR&CE department, who are the Trustee/administrator of the temple lands, shall not alienate or give away the lands contrary to the wish of the donor. The lands shall always remain with the temples. The public purpose theory shall not be invoked in cases of temple lands over which the interest of the community people of the religious denomination generally rests.

...

(35) The encroachment and illegal constructions in the protected area, archaeological sites, temple lands, etc., must immediately be removed. The extent of lands owned by the temples must be identified with the help of the revenue Department by the District Level Committee. The District Collector of the appropriate District, on the request of the Heritage Commission or State Committee or District Level Committees or by any officer of the HR&CE Department, shall forthwith take steps for the removal of any such illegal construction or encroachment or unauthorised occupants. Appropriate action must be taken against the errant Government officials of the central as well as state department and officers under the HR&CE department for not removing the encroachments in the protected and regulated area, within a period of eight (8) weeks on expiry of the time given.

(36) A list of defaulters with the arrears due from them must be prepared within a period of six (6) weeks and the same must be published in the website. Appropriate steps must be taken to evict them and recover the arrears as per the provisions of the HR&CE Act and the rules there under.

(37) The respondent authorities shall regulate the period of lease pertaining to the properties of the religious institutions and renewal of the same.

..."

12. Applying the aforesaid legal proposition to the facts of the present case, wherein, the ninth respondent is said to have been illegally occupying the properties

of the mutt without paying any rent for the past 15 years and have leased it to the tenth respondent, who in turn has sub-leased the same to the eleventh respondent in contravention of the HR&CE Act. However, the HR&CE Department has not taken effective action to recover the alienated properties belonging to the eighth respondent despite the complaint. If that being so, such callous attitude cannot be countenanced by this court.

13. It appears from the counter affidavit filed by the eight respondent that with regard to the complaint made in respect of three properties, viz., (i)Mukkudi and Erkkalavelur Village, Sivagangai District - 1191 Acres, (ii) South Avani Moola Veethi, Madurai City - 3500 sq.ft. and (iii) Yaanaikara Street, Madurai City - 3541 sq.ft., enquiry was conducted and order was passed by the Joint Commissioner, HR&CE department on 09.03.2022 regarding the first property and the same was challenged by the tenth respondent by filing an appeal, which is pending before the third respondent. With respect to the other two properties, no enquiry has been conducted till date. This court has time and again reiterated that the properties belonging to the temples and mutt, should be used only for the temple and religious activities and if it is encroached by any third party, it should be removed and retrieved with immediate effect *de hors* the pendency of any proceedings.

14. Therefore, this court deems it appropriate to issue the following directions:

(i) The respondent concerned shall dispose of the appeal, if any, filed by the private respondent(s) i.e., 9 to 11, on merits and in accordance with law, after affording due opportunity of hearing to all the parties, within a period of four weeks from the date of receipt of a copy of this order.

(ii) The respondent concerned shall conduct enquiry and take appropriate action with respect to other two properties namely South Avani Moola Veethi, Madurai City and Yaanaikara Street, Madurai City, after affording an opportunity of hearing to all the parties, on merits and in accordance with law and also in the light of the directions issued in suo motu WP No. 574 of 2015 etc. batch, so as to secure the lands belonging to the eighth respondent Mutt and recover the arrears of rent due to them.

(iii) In respect of other properties belonging to Madurai Aadheenam, the third respondent shall take immediate action with the assistance of the concerned police officials, if required, for removal of unauthorised occupation and encroachments / possession, besides recovery of arrears of rent, if any, as directed by this court in *suo motu* WP.No.574/2015 etc. batch (cited supra).

(iv) The third respondent / HR&CE department shall ensure that the properties belonging to temples and Mutts, are maintained and utilized for the benefit of the religious institutions only.

15. With the aforesaid directions, this writ petition stands disposed of. No costs.

[R.M.D., J.] [J.S.N.P., J.]
13.12.2022

Internet : Yes.
Index : Yes / No

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To

1.The Secretary to Government,
Tourism Culture & Endowments Department,
Secretariat, Chennai - 600 009.

2.The Commissioner of Revenue Administration,
Chepauk,
Chennai - 600 005.

3.The Commissioner,
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and
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r n s

Pre Delivery order made in
W.P.(MD)No.23996 of 2022

13/12/2022