



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.04.2022

CORAM

THE HONOURABLE MR. JUSTICE C.SARAVANAN

WEB COPY

Writ Petition (MD) Nos.23455 and 23456 of 2017

and

W.M.P. (MD) Nos.19717 & 19718 of 2017 and 5462 & 5465 of 2021

S.Ayappan .. Petitioner in W.P.(MD)No.23455 of 2017

1.C.Perumal Pillai (Died)

2.P.Bagavadhiyammal .. Petitioners in W.P.(MD)No.23456 of 2017

[2nd Petitioner is substituted vide Court
order dated 25.03.2022, made in
W.M.P. (MD)No.4079 of 2022]

Versus

1.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Trivandrum High Road,
Palayamkottai, Tirunelveli District.

2.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Nagercoil,
Kanyakumari District.

3.Arulmighu Chenthil Vinayagar Thirukovil,
Rep. by its Managing Trustee,
Muthiah Pillai,
S/o.Subramania Pillai,
Chetti Street,
Akkarai, Suchindrum,
Kanyakumari District.

4.Muthiah Pillai, S/o.Subramania Pillai

5.The Slum Clearance Department,
Kanyakumari District.

6.The District Collector,
Kanyakumari District. .. Respondents in both the W.Ps.

[R5 and R6 are *suo motu* impleaded vider Court
order dated 06.04.2022 in W.P.(MD)Nos.23455 &
23456 of 2017]



Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the first respondent vide his proceedings, in M.P.Nos.78 and 79 of 2016, dated 28.11.2017, quash the same and consequently, directing the respondents to receive the rent from the petitioners.

For Petitioner : Mr.M.P.Senthil
(in both the W.Ps.)

For R1, R2, R5 and R6 : Mr.P.Subbaraj
(in both the W.Ps.) Special Government Pleader

For R3 and R4 : Mr.C.Muthusaravanan
(in both the W.Ps.)

COMMON ORDER

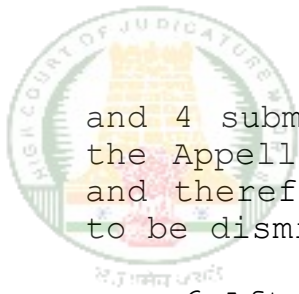
These Writ Petitions have been filed seeking to quash the impugned orders passed by the first respondent, vide his proceedings, in M.P.Nos.78 and 79 of 2016, dated 28.11.2017, and consequently, direct the respondents to receive the rent from the petitioners.

2.It is the case of the respective petitioners that they are the tenants of the third respondent Temple and they have been in possession of the property for a considerably long period of time. They have been evicted unceremoniously by the respondents by filing an application under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 [hereinafter referred to as the 'HR & CE Act'].

3.The learned counsel for the petitioners submits that the petitioners are the poor workers of the Temple, who have been now been denied of the livelihood and have been evicted. It is, therefore, submitted that the impugned orders passed by the first respondent are liable to be quashed.

4.Opposing the prayer, the learned counsel for the respondents 3 and 4 submits that due procedure under Section 78 of the H.R. & C.E. Act was complied with before the impugned orders were passed. It is submitted that the impugned orders preceded with a notice dated 17.10.2016 and thereafter, the petitions came to be filed before the first respondent in M.P.Nos.78 and 79 of 2016 and that the respective petitioners also participated in the proceedings before the first respondent before the impugned orders were passed.

5.The learned counsel for the respondents 3 and 4 further submits that the impugned orders are well reasoned and require no interference. That apart, the learned counsel for the respondents 3



and 4 submits that the petitioners have an alternate remedy before the Appellate Commissioner under Section 21 of the H.R. & C.E. Act and therefore, on this score also, these Writ Petitions are liable to be dismissed.

6. After the respondents 5 and 6 are impleaded, the learned counsel for the petitioners submits that the petitioners may also be given liberty to file a revision petition under Section 21 of the H.R. & C.E. Act.

7. I have heard the learned counsel appearing for the parties and perused the materials on record and also considered the submissions of the learned Special Government Pleader.

8. The petitioners cannot continue to stay in the property of the Temple, if the Temple property is required for other purposes. However, if there are vested rights with the petitioners to continue in possession, they may do so, by approaching the Commissioner by filing appropriate revision petition under Section 21 of the H.R. & C.E. Act within a period of 30 days from the date of receipt of a copy of this order.

9. Considering the fact that the land may be required for the Temple, the petitioners may also give a representation to the respondents 5 and 6 for suitably rehabilitating them in any other location so that, they are not deprived of their livelihood and shelter. The respondents 5 and 6 may consider and pass appropriate orders on their representation within a period of 45 days from the date of the said representation. The respective petitioners shall vacate the premise at the end of 45 days from the date of receipt of this order.

10. These Writ Petitions are disposed of in terms of the above observation. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (P&A)

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/ /2022

Sub Assistant Registrar (CS)

To

1. The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Trivandrum High Road,
Palayamkottai, Tirunelveli District.



2.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Nagercoil,
Kanyakumari District.

3.The Slum Clearance Department,
Kanyakumari District.

4.The District Collector,
Kanyakumari District.

+2 CC to M/s.M.P. SENTHIL, Advocate (SR-19223 & 19224[F] dated
19/04/2022)

+1 CC to M/s.C. MUTHU SARAIVANAN, Advocate (SR-19239[F]
dated 19/04/2022)

+1 CC to M/s.SPL.GP (SR-19544[F] dated 19/04/2022)

Common order in
Writ Petition (MD) Nos.23455 and 23456 of 2017
18.04.2022

AM(CO)

GC(11.05.2022) 4P 9C