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W.P.Nos.12358, 12625 and 12707 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

W.P.Nos.12358, 12625 and 12707 of 2022
and W.M.P.Nos.11796, 11797, 12073 to 2075,
12166 to 12168 of 2022

W.P.No.12358 of 2022

B.Saravanan

.. Petitioner

Vs.

1.The Government of Tamil Nadu
Represented by its Secretary
Hindu Religious and Charitable
Endowments
Fort St. George
Secretariat, Chennai-600 003.

2.The Commissioner
Hindu Religious and Charitable
Endowments Department
119, Nungambakkam
Chennai-600 034.

3.The District Collector
Cuddalore District
Cuddalore.



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4.The Joint Commissioner
Hindu Religious and Charitable
Endowments Department
Cuddalore.

5.The Commissioner
Chidambaram Municipality
Chidambaram
Cuddalore District.

6.The Assistant Commissioner
Hindu Religious and Charitable
Endowments Department
Cuddalore.

7.The Fit Person
Arulmigu Gurunamashivaya Moorthi Mutt
Chidambaram – 608 001
Cuddalore District.

8.The Tahsildar
Chidambaram Taluk
Chidambaram
Cuddalore District.

9.The Inspector of Police
Chidambaram Town Police Station
Cuddalore District.

10.V.Pasavaraj

11.V.Vanchinathan

12.A.Radhakrishnan

.. Respondents

Prayer in W.P.No.12358 of 2022: Writ Petition is filed under Article 226

of the Constitution of India, praying for issuance of a Writ of



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Certiorarified Mandamus to call for records relating to the 2nd respondent's lock and seal notice in Na.Ka.No.122/2017/F1 dated 31.03.2022, quash the same and consequently, direct the 5th respondent to consider the planning application No.0280 dated 26.04.2022 in accordance with law.

- 1.G. Sekar
- 2.T. Shankar
- 3.Meenakshi
- 4.Pratheeba
- 5.R. Gnanavel
- 6.Sumathi
- 7.V.Parasuraman
- 8.D.Narayanan
- 9.R. Settu
- 10.T. Settu
- 11.Manjula
- 12.R.Vasanthan

... Petitioners in

W.P.No.12625 of 2022

- 1.S.Palanisamy
- 2.M.Ganesan
- 3.M.Krishnan
- 4.A.Mala
- 5.Amutha
- 6.Shakila

.. Petitioners in

W.P.No.12707 of 2022

-VS-



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1. The District Collector,
Cuddalore,
Cuddalore District.

2. The Superintendent of police,
Cuddalore,
Cuddalore District.

3. The Municipal Commissioner,
Chidambaram Municipality,
Chidambaram,
Cuddalore District.

4. The Thasildar,
Chidambaram Taluk,
Cuddalore District.

5. The Inspector of Police,
Chidambaram Town Police station,
Cuddalore District.

6. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Cuddalore.

7. The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Cuddalore.

8. V. Pasavaraj

9. V. Vanchinathan

10. A. Radhakrishnan

.. Respondents in
both W.P.Nos.12625 & 12707 of 2022

Common Prayer in both W.P.Nos.12625 & 12707 of 2022: Writ
Petitions are filed under Article 226 of the Constitution of India, praying



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for issuance of a Writ of Certiorari to call for the records of the impugned order passed by the 3rd respondent in his proceeding Na.Ka.No.122/2017/F1 dated 31.03.2022, addressed to all the petitioners and quash the same.

In W.P.No.12358 of 2022

For petitioner : Mr.R.Sagadevan
For RR1, 2, 4 & 6 : Mr.N.R.R.Arun Natarajan
Special Government Pleader (HR&CE)
For RR3, 8 & 9 : Mr.A.Selvendran
Special Govt. Pleader
For R5 : Mr.V.Jayaprakash Narayanan
For R10 : Mr.V.Lakshmi Narayanan
For R11 : Mr.T.Saravanan

In W.P.Nos.12625 & 12707 of 2022

For petitioners : Mr. K.Raja
for Mr.N.Kolandaivelu
For RR1,2,4 & 5 : Mr.A.Selvendran
Special Govt. Pleader
For R3 : Mr.V.Jayaprakash Narayanan
For RR6 and 7 : Mr. N. R. R. Arun Natarajan
Special Govt. Pleader (HR & CE)
For R8 : Mr.V. Lakshmi Narayanan
For R9 : Mr. T. Saravanan



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COMMON ORDER

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(Order of the Court was delivered by V.M.VELUMANI,J.)

Writ Petitions are filed challenging the lock and seal notices issued by the 2nd respondent in W.P.No.12358 of 2022 and 3rd respondent in W.P.Nos.12625 & 12707 of 2022 in Na.Ka.No.122/2017/F1 dated 31.03.2022 and consequently, direct the 5th respondent in W.P.No.12358 of 2022 to consider the planning application No.0280 dated 26.04.2022 in accordance with law.

2.Heard both sides and perused the entire materials available on record.

3.From the materials on record, it is seen that property in question belongs to Arulmigu Gurunamashivaya Moorthi Mutt. One of the Trustees of the said Mutt viz., Pasavaraj, 10th respondent in W.P.No.12358 of 2022 filed writ petition No.13969 of 2015 for a direction to the respondents to pass appropriate orders on the representation given by the petitioner therein dated 06.04.2015 and W.P.No.5236 of 2017 for a direction to the Commissioner, Chidambaram Municipality/1st respondent therein to implement the order of the 2nd respondent dated 12.12.2016.



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4. One V.Vanchinathan, a devotee 11th respondent in W.P.No.12358

of 2022 filed writ petition No.31136 of 2018 praying for a direction to the Superintendent of Police, Cuddalore District and Inspector of Police, Chidambaram, Cuddalore District, to provide Police protection for removal of illegal encroachment in the property belonging to Arulmigu Gurunamashivaya Moorthi Mutt. This Court by order dated 26.11.2018 passed an order directing the Chidambaram Municipality to take steps to remove the illegal encroachment with the help of Superintendent of Police. A Contempt Petition No.1787 of 2019 was filed against the Commissioner, Chidambaram Municipality alleging that Commissioner, Chidambaram Municipality failed to implement the order of this Court. On receipt of statutory notice issued by this Court, the Commissioner, Chidambaram Municipality appeared before this Court and filed an affidavit stating that property belongs to the Mutt, it is not the property of the Municipality and only the HR and CE Department is the competent authority to take action. The Commissioner, Chidambaram Municipality has also stated that Municipality filed Review Petition No.100 of 2020 against the order dated 26.11.2018 made in W.P.No.31136 of 2018. Subsequently, the Commissioner, Chidambaram Municipality has issued impugned notice dated 31.03.2022 under Sections 56 & 57 of Tamil



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Nadu Town and Country Planning Act, 1971 to the petitioners for removal of unauthorised constructions. Challenging the said notice, the petitioners have filed the present writ petitions for the above stated relief.

5. When the writ petitions were listed on 30.09.2022, Mr.N.R.R.Arun Natarajan, learned Special Government Pleader (HR & CE) Department submitted that proceedings under Section 78 of HR and CE Act had been initiated against the petitioners and other occupants and the said proceedings will be completed within two months. The said statement was recorded.

6. When the writ petitions were listed for hearing on 05.01.2023, Mr.N.R.R.Arun Natarajan, learned Special Government Pleader (HR & CE) Department submitted that the Joint Commissioner, HR and CE Department passed the final order under Section 78 of HR and CE Act by the proceedings dated 25.11.2022 and fixed the date on 07.01.2023 for eviction and hence, the matters were directed to be posted today. This Court directed the learned Special Government Pleader (HR & CE) Department to inform the HR and CE Department not to proceed with eviction till today, i.e. 11.01.2023.



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7.Learned counsel appearing for the petitioners in W.P.Nos.12625 & 12707 of 2022 submitted that against the order dated 25.11.2022, petitioner and five others filed revision before the Commissioner, HR and CE Department along with a petition for stay of the order dated 25.11.2022.

8.Mr.V.Lakshmi Narayanan, learned counsel appearing for the 10th respondent in W.P.No.12358 of 2022, one of the Trustees of Arulmigu Gurunamashivaya Moorthi Mutt submitted that more than 30 unauthorised constructions were put up on the Mutt land and the petitioners and some of the encroachers have constructed toilet near the Mutt. Earlier this Court by the order dated 08.07.2021 made in W.P.No.11977 of 2021 directed the Municipality to remove the toilet put up nearby the Mutt. But the Municipality has not taken any action. Learned counsel further submitted that petitioner and other encroachers gave undertaking before the Municipality that they will vacate the premises on or before 07.01.2023.

9.Learned counsel appearing for the petitioner in W.P.No.12358 of 2022 submitted that the petitioner has not given any such undertaking to the Municipality for vacating the premises.



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10.Mr.V.Jayaprakash Narayanan, learned counsel appearing for the

5th respondent in W.P.No.12358 of 2022, the Commissioner, Chidambaram Municipality submitted that land belonged to Mutt. With regard to unauthorised construction, the Municipality has already initiated proceedings and is proceeding further and if there is any unauthorised construction, they will demolish the said unauthorised construction.

11.Considering the above submissions of the learned counsel appearing for the petitioners that they have already filed revision before the Commissioner, HR and CE Department challenging the order of the Joint Commissioner dated 25.11.2022 and submissions of learned counsel appearing for the 10th respondent in W.P.No.12358 of 2022 that toilet is constructed near the Mutt and contention of the learned counsel appearing for the 5th respondent in W.P.No.12358 of 2022, Commissioner, Chidambaram Municipality, the petitioners are given time till 30.01.2023, the Joint Commissioner, HR & CE Department is directed not to take any action against the petitioners till 30.01.2023. The 5th respondent, Commissioner, Chidambaram Municipality, is directed to inspect the property in question within one week and if any toilet is



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constructed unauthorisedly near the Mutt without any permission, take appropriate action.

12. With the above directions, the writ petitions are dismissed. It is open to the petitioners to pursue the revision petition along with stay petition. Learned counsel appearing for the petitioners are directed to inform the petitioners not to create any law and order problem while evicting the premises. No costs. Consequently, connected Miscellaneous Petitions are closed.

(V.M.V., J) (R.H., J)
11.01.2023
(2/2)

Index : Yes/No
Neutral Citation : Yes/No
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Represented by its Secretary
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Secretariat, Chennai-600 003.

2. The Commissioner
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**V.M.VELUMANI,J.
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