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Writ Petition No.13396 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2023

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.13396 of 2023

and

W.M.P.Nos.13083, 13085 & 13086 of 2023

Palanivel

S/o.Appu Gounder

... Petitioner

Vs.

1.The Joint Commissioner,
Hindu Religious and Charitable Endowments,
Nagapattinam,
Nagapattinam District.

2.The Assistant Commissioner,
Hindu Religious and Charitable Endowments,
Thiruvarur, Thiruvarur District.

3.The Executive Officer,
Office at Arulmigu Piravi Marundeeswarar Swamy
Temple,
Thiruthuraipoondi Town & Taluk,
Thiruvarur District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the impugned order dated 10.04.2023 in M.P.No.123/2021 passed by the first respondent and quash the same, consequently forbear the respondents from interfering with the possession and enjoyment of



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the petitioner for the property in S.No.184/12 to an extent of 10 cents situated at Mettu Street, Thiruthuraipoondi, Thiruvarur District.

For Petitioner : Mr.K.Balu

For Respondent : Mr.N.R.R.Arun Natarajan
Special Government Pleader [R1 & R2]
Mr.R.Bharanidharan [R3]

ORDER

This writ petition has been filed challenging the order passed by the first respondent in M.P.No.123/2021, dated 10.04.2023 and for a consequential direction to respondents not to interfere with the possession and enjoyment of the subject property.

2. Heard Mr.K.Balu, learned counsel for petitioner, Mr.N.R.R.Arun Natarajan, learned Special Government Pleader appearing for respondents 1 and 2 and Mr.R.Bharanidharan, learned counsel appearing for third respondent.

3. The main grievance that was ventilated by learned counsel for petitioner is that the petitioner is having a right and title over the subject property and the same has not been considered by the Joint



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Commissioner while passing the impugned order and hence, the impugned order suffers from non-application of mind. Learned counsel further submitted that hasty steps are being taken by the respondents to take over possession of the property. In the considered view of this Court, the grievance that was raised before this Court is squarely answered by Section 79(2) of the Hindu Religious and Charitable Endowments Act, 1959 [hereinafter referred to as 'the Act']. The said provision makes it very clear that any person, who is aggrieved by the order passed by the Joint Commissioner u/s.78(4) of the Act can always approach a civil Court and establish that the religious institution has no title over the property.

4. In the present case, the main claim of the petitioner is that the temple has no right or title over the property. If such a stand is taken by the petitioner, irrespective of the order passed by the Joint Commissioner, the petitioner is entitled to file a suit and such a right is given under the Act. The petitioner without availing the efficacious alternative remedy available under the Act cannot be permitted to maintain a writ petition before this Court. Hence, liberty is granted to the

N.ANAND VENKATESH, J



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petitioner to work out his remedy in accordance with Section 79(2) of the Act and proceed further in accordance with law.

Since the writ petition is not maintainable, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

27.04.2023

Note to office: Issue order copy by 28.04.2023

Neutral Citation: Yes/No

Index: yes/no

Speaking Order/Non-Speaking Order

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To

1.The Joint Commissioner,
Hindu Religious and Charitable Endowments,
Nagapattinam,
Nagapattinam District.

2.The Assistant Commissioner,
Hindu Religious and Charitable Endowments,
Thiruvarur, Thiruvarur District.

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