



W.P.No.16350 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2023

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.16350 of 2023

and

W.M.P.Nos.15725, 15726 and 15729 of 2023

Palanivel

... Petitioner

VS.

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

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

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

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned notice dated 12.05.2023 in Na.Ka.No.162/2023 passed by the 2nd respondent and quash the same, Consequently forbear the respondents from interfering in the possession and enjoyment of the petitioner for the



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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 R1 and R2 : Mr.K.Karthikeyan
Government Advocate

For R3 : Mr.R.Bharanidharan
Standing Counsel

ORDER

The petitioner herein has come up by way of this writ petition challenging the order passed by the 2nd respondent seeking enforcement of the order passed by 1st respondent evicting the petitioner from the land in S.No.184/12 to an extent of 10 cents situated at Mettu Street, Thiruthuraipoondi, Thiruvarur District.

2. It is the case of the petitioner that he is the owner of the property in S.No.184/12 with an extent of 10 cents situated at Mettu Street, Thiruthuraipoondi, Thiruvarur District. The 1st respondent herein initiated proceedings for eviction of the petitioner under Section 78 (2) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 in M.P.No.123/2021/C.2/dated 04.08.2022. The petitioner herein participated



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in the said proceedings and ultimately, an order of eviction was passed against him by the 1st respondent on 10.04.2023. Thereafter, the impugned order was passed by the 2nd respondent seeking enforcement of the order of eviction passed by the 1st respondent. Aggrieved by the same, the petitioner has come up with this writ petition.

3. When the writ petition is taken up for hearing, the learned counsel appearing for the 3rd respondent filed an affidavit stating that the petitioner has been completely evicted from the premises and the building in the above said land is sealed and the same is in possession of the temple administration from 23.05.2023. In fact, when the writ petition came up for hearing on 02.06.2023, it was brought to the notice of this Court that a portion of the building has already been demolished by the Hindu Religious and Charitable Endowment Department. After recording the same, this Court granted an order of *status quo*.

4. The learned counsel appearing for the petitioner by relying on the additional affidavit filed by the petitioner dated 11.09.2023 submitted that a portion of the land is still in his possession and the respondents are violating



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the orders passed by this Court by constructing pathway in the land in question. The learned counsel further submitted that he already filed a suit disputing the title of the 3rd respondent/temple in O.S.No.8 of 2023 on the file of the Vacation Court/Principal District Court, Tiruvarur District and subsequently, the same was transferred to the Principal District Court, Tiruvarur District and renumbered as O.S.No.32 of 2023. The said suit is pending adjudication. The petitioner also filed an application for injunction in I.A.No.3 of 2023 and the same is pending.

5. The learned counsel appearing for the petitioner further submitted that in view of law laid down by this Court in ***S.Selvi vs. Joint Commissioner, Hindu Religious and Charitable Endowments Department and others*** reported in ***2023 SCC Online Mad 3813***, the bar available under Section 79 (3) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, will not apply to the suit filed under Section 79 (2) of the said Act.

6. Now, the contesting 3rd respondent has taken a definite stand in his affidavit that the possession of the property has been taken as early as



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23.05.2023, the building in the disputed land is sealed and the same is in the possession of the temple administration.

7. In view of the same, the proceedings initiated under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, for eviction of the petitioner has culminated in enforcement of the order of eviction passed. Once, the proceedings under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, comes to an end by enforcement of the order of eviction was passed, the bar under Section 79 (3) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, will not curtail the power of the Civil Court in adjudicating the matter.

8. Section 79 (3) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, reads as follows:-

“79. (3) No injunction shall be granted by any Court in respect of any proceeding taken or about to be taken by the Joint Commissioner under Section 78.”

9. A reading of the above provision would make it clear that the Civil



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Court cannot grant any order of injunction in respect of any proceedings taken or about to be taken by the Joint Commissioner under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959.

10. In the case on hand, already the proceedings was taken against the petitioner under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 and order of eviction was passed. The said order of eviction is also said to have been enforced. In the affidavit filed by 3rd respondent it is averred that possession of property in question was taken over by 3rd respondent on 23.05.2023 and a portion of building was already demolished. In the demolished portion a pathway around tank was restored and remaining portion of building sealed and it is in possession of temple administration. The 3rd respondent also produced photographs wherein the notice board put up by temple administration regarding fact of taking possession and partial demolition of building, laying of pathway etc., are captured. In such circumstances, the proceedings initiated under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, is already culminated in enforcement of order of eviction. Therefore, the bar under Section 79 (3) of the Act will not curtail the power of the Civil



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Court from considering the prayer for interim relief by the petitioner. In view of bar under Section 79(3) of Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, Civil Court cannot grant any interim order so as to stall eviction proceedings under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 or enforcement of such eviction order. However, once eviction order is enforced the Civil Court certainly consider other interim reliefs by taking into consideration issues involved in the suit.

11. The petitioner already said to have been filed an application seeking interim relief in I.A.No.3 of 2023 in pending suit in O.S.No.32 of 2023 on the file of the Principal District Court, Tiruvarur.

12. In view of the above, the Principal District Court, Tiruvarur, is directed to consider the application filed by the petitioner for interim relief in I.A.No.3 of 2023 and pass final orders, within a period of eight weeks from the date of receipt of copy of this order.

13. This Court at the time of entertaining this writ petition granted



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interim order of *status quo* in favour of the petitioner. Till the application in

I.A.No.3 of 2023 is considered and final order is passed by the concerned

Civil Court, both the parties are directed to maintain *status quo*. The Civil

Court shall consider I.A.No.3 of 2023 on it's own merits without being

influenced by anything said in this order.

14. With the above directions, the writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

13.09.2023

Index : Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No

dm

Note: Issue order copy on 19.09.2023.



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To

WEB COPY

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S.SOUNTHAR, J.

dm

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