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Writ Petition Nos.5368, 5369, 5370, 5371 and 5372 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :24.08.2023

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

Writ Petition Nos.5368, 5369, 5370, 5371 and 5372 of 2017
and W.M.P.Nos.5692, 5701, 5694, 5695, 5696,
5697, 5698, 5699, 5700, 5701 of 2017

W.P.No.5368 of 2017:

S.Thangamani

... Petitioner

Vs

1.The Commissioner,
Hindu Religious and Charitable Endowments
Administrative Department,
Uthamar Gandhi Road,
Nungambakkam,
Chennai – 600 034.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Salem.

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Dharmapuri.

4.The Executive Officer,
Arulmighu Sivasubramanya Swamy Temple,
Kumaraswamypettai,
Dharmapuri.

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India,



Writ Petition Nos.5368, 5369, 5370, 5371 and 5372 of 2017

to issue a writ of Certiorarified Mandamus, to call for the records relating to Na.Ka.No.1529/2013/A6, dated 07.02.2017, issued by the 3rd respondent and quash the same, consequently, direct the 3rd respondent to remove the seal of the premises of the petitioner in respect of shop situate in Ward-C, Block No.11, S.No.41 in 173 sq.ft, to an extent of Eswar Graphics (Thirumurugan Tyres) Proprietor S.Thangamani at Nachiappa Gounder Street, Dharmapuri Town and Taluk.

For Petitioner : Mr.R.Sankara Subbu

For Respondents : Mr.K.Karthikeyan
Government Advocate (HR and CE)
for R1 to R3
Mr.V.R.Annagandhi for R4

W.P.No.5369 of 2017:

S.Thangamani

... Petitioner

Vs

1.The Commissioner,
Hindu Religious and Charitable Endowments
Administrative Department,
Uthamar Gandhi Road,
Nungambakkam,
Chennai – 600 034.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Salem.

3.The Assistant Commissioner,

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Hindu Religious and Charitable Endowments Department,
Dharmapuri.

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4.The Executive Officer,
Arulmighu Sivasubramanya Swamy Temple,
Kumaraswamypettai,
Dharmapuri.

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records relating to Na.Ka.No.1529/2013/A6, dated 07.02.2017, issued by the 3rd respondent and quash the same, consequently, direct the 3rd respondent to remove the seal of the premises of the petitioner in respect of shop situate in Ward-C, Block No.40, to an extent of 508 sq.ft, Bakery shop (Yes Mobiles) Proprietor S.Thangamani at Nachiappa Gounder Street, Dharmapuri Town and Taluk.

For Petitioner : Mr.R.Sankara Subbu

For Respondents : Mr.K.Karthikeyan
Government Advocate (HR and CE)
for R1 to R3
Mr.V.R.Annagandhi for R4

W.P.No.5370 of 2017:
S.Thangamani

... Petitioner



Writ Petition Nos.5368, 5369, 5370, 5371 and 5372 of 2017

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Vs

1.The Commissioner,
Hindu Religious and Charitable Endowments
Administrative Department,
Uthamar Gandhi Road,
Nungambakkam,
Chennai – 600 034.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Salem.

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Dharmapuri.

4.The Executive Officer,
Arulmighu Sivasubramanya Swamy Temple,
Kumaraswamypettai,
Dharmapuri.

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records relating to Na.Ka.No.1529/2013/A6, dated 07.02.2017, issued by the 3rd respondent and quash the same, consequently, direct the 3rd respondent to remove the seal of the premises of the petitioner in respect of shop situate in Ward-C, Block No.43, to an extent of 162 sq.ft, Ganga Leynares (Nexine, seat, tylering shop) Proprietor S.Thangamani at Nachiappa Gounder Street, Dharmapuri Town and Taluk.



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For Petitioner : Mr.R.Sankara Subbu

For Respondents : Mr.K.Karthikeyan
Government Advocate (HR and CE)
for R1 to R3
Mr.V.R.Annagandhi for R4

W.P.No.5371 of 2017:

S.Thangamani

... Petitioner

Vs

1.The Commissioner,
Hindu Religious and Charitable Endowments
Administrative Department,
Uthamar Gandhi Road,
Nungambakkam,
Chennai – 600 034.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Salem.

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Dharmapuri.

4.The Executive Officer,
Arulmighu Sivasubramanya Swamy Temple,
Kumaraswamypettai, Dharmapuri.

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India,
to issue a writ of Certiorarified Mandamus, to call for the records relating to
Na.Ka.No.1529/2013/A6, dated 07.02.2017, issued by the 3rd respondent



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and quash the same, consequently, direct the 3rd respondent to remove the seal of the premises of the petitioner in respect of shop situate in Ward-C, Block No.11, S.Nos.40, 41 in 313 Sq.ft to an extent of Om Sakthi Driving School (Thirumurugan Transport) Proprietor S.Thangamani at Nachiappa Gounder Street, Dharmapuri Town and Taluk.

For Petitioner : Mr.R.Sankara Subbu

For Respondents : Mr.K.Karthikeyan
Government Advocate (HR and CE)
for R1 to R3
Mr.V.R.Annagandhi for R4

W.P.No.5372 of 2017:

S.Thangamani

... Petitioner

Vs

1.The Commissioner,
Hindu Religious and Charitable Endowments
Administrative Department,
Uthamar Gandhi Road, Nungambakkam, Chennai – 600 034.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Salem.

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Dharmapuri.

4.The Executive Officer,
Arulmighu Sivasubramanya Swamy Temple,
Kumaraswamypettai,
Dharmapuri.

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... Respondents

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PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records relating to Na.Ka.No.1529/2013/A6, dated 07.02.2017, issued by the 3rd respondent and quash the same, consequently, direct the 3rd respondent to remove the seal of the premises of the petitioner in respect of shop situate in Ward-C, Block No.11, S.Nos.43 in 183 Sq.ft to an extent of Maruthi Vinayagam (Muthuvinayagar Welding Works) Proprietor S.Thangamani at Nachiappa Gounder Street, Dharmapuri Town and Taluk.

For Petitioner : Mr.R.Sankara Subbu

For Respondents : Mr.K.Karthikeyan
Government Advocate (HR and CE)
for R1 to R3
Mr.V.R.Annagandhi for R4

COMMON ORDER

These writ petitions are filed challenging the order passed by the 3rd respondent, seeking to enforce the order of eviction passed against the petitioner under Section 78 of HR and CE Act.

2. When these matters are taken up for hearing, the learned



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Government Advocate appearing for the respondents 1 to 3 and the learned counsel appearing for the 4th respondent submit that the eviction order has been enforced and in pursuance of the impugned order possession has been already taken by the 4th respondent on 22.07.2017 itself.

3. The learned counsel appearing for the petitioner by relying on the order passed in W.P.No.4328 of 2017 submitted that inspite of interim protection granted by this Court, the respondents had taken possession of the property.

4. A reading of the order passed in W.P.No.4328 of 2017 would suggest that the said writ petition was filed challenging the very same order, which is impugned in this writ petition. However, the said writ petition was filed in respect of premises comprised in Door No.12H, Nachiappan Road, Dharmapuri Town. However, in the present writ petitions Door numbers of the premises are not given. On the other hand, the names of the shops are mentioned. A reading of impugned order would suggest eviction order passed against the occupants of six items of properties were sought to be enforced.



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5. These writ petitions are filed in support of Bakery Shop, Easwar Graphics, Maruthi Vinayagam, Ganga Liners, and Om Sakthi Driving School having an extent of 508, 173, 183, 162 and 313 sq.ft, respectively. No writ petition has been filed, in respect of 6th item of property mentioned in impugned order with an extent of 525 sq.ft.

6. In the impugned order, the names of the occupants of the above mentioned shops are also given. The petitioner earlier filed W.P.No.4328 of 2017, in respect of shop bearing door No.12H and the said writ petition was disposed of by granting liberty to the petitioner to file revision before Commissioner of HR and CE. The petitioner was also directed to deposit the entire arrears to the tune of Rs.2,65,980/-. In such circumstances, the petitioner is not entitled to file present writ petitions, challenging the very same impugned order, in respect of other items dealt with (item Nos.1 to 5) under the very same impugned order.

7. Against the order of eviction passed under Section 78 of HR and CE Act, the petitioner has got remedy of filing the revision before the



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Commissioner, HR and CE Department. He is also having the option of filing the Civil Suit disputing the title of the Religious Institutions. In the revision filed against eviction order, the petitioner shall file application for stay of enforcement of eviction order and workout his remedy. In view of the availability of alternative remedy, the writ petitions cannot be entertained. Further, interim protection given in W.P.No.4328 of 2017 is restricted to shop in door No.12H and not in respect of other shops covered by the present writ petitions.

8. Since the order of eviction was already enforced, the prayer in the writ petition also has become infructuous. Therefore, these writ petitions are dismissed with liberty to the petitioner to avail alternative remedy subject to law of limitation. If already any revision is filed by the petitioner as per the order passed by this Court in W.P.No.4328 of 2017, the 1st respondent shall consider the same and pass orders on its merits, within a period of twelve weeks from the date of receipt of a copy of this order.



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9. With these observations, these writ petitions are dismissed.

No costs. Consequently, connected miscellaneous petitions are closed.

24.08.2023

Index : Yes/No

Speaking order: Yes/No

Neutral citation: Yes/No

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To

1.The Commissioner,
Hindu Religious and Charitable Endowments
Administrative Department,
Uthamar Gandhi Road,
Nungambakkam,
Chennai – 600 034.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Salem.

3.The Assistant Commissioner,
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S.SOUNTHAR, J.
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