



WEB COPY



W.P. Nos. 28952, 28953, 28954 and 28956 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. Nos. 28952, 28953, 28954 and 28956 of 2023

Habibur Rahman	... Petitioner in W.P. No.28952 /2023
Ravichandaran	... Petitioner in W.P. No.28953 /2023
G.Mohan	... Petitioner in W.P. No.28954 /2023
Haroon Basha	... Petitioner in W.P. No.28956 /2023

-VS-

1. The Commissioner
Hindu Religious and Charitable Endowments Department
119, Uthamar Gandhi Salai
Nungambakkam, Chennai – 600 034.
 2. The Joint Commissioner -I
Hindu Religious and Charitable Endowments Department
128, Yadaval Street, Padi, Chennai-600 050.
 3. The Executive Officer
Arulmigu Ellaiaimman Thirukoil
Periamet, Chennai – 600 003.
- Wps
- ... Respondents In all

Common Prayer:- Writ Petitions filed under Article 226 of the Constitution of India, 1950, praying to issue Writs of Mandamus, directing the First Respondent to consider Petitioners representation dated 13.07.2022 and 11.07.2022 for fixation of fair rent in accordance with law on merits, within the time frame fixed by the Court.

For Petitioners : Mr. T.Senthilkumaran (In all Wps)



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For Respondents : Mr. N.R.R.Arun Natarajan, SGP (In all Wps)
COMMON ORDER

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Heard Mr. T.Senthilkumaran, Learned Counsel for the Petitioners and Mr. N.R.R.Arun Natarajan, Learned Special Government Pleader, who takes notice for the Respondents, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioners, who claim to be in occupation of the property belonging to the Temple of the Third Respondent, have filed these Writ Petitions seeking directions to the First Respondent to consider their representations dated 11.07.2022 and 13.07.2022 made for fixation of fair rent for the said premises within a time frame that may be fixed by the Court.

3. In response, Learned Special Government Pleader appearing for the Respondents submits that the Petitioners are not tenants under the Temple of the Third Respondent and that the Third Respondent is taking steps for evicting the Petitioners in proceedings under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, from the premises in their unlawful occupation. He has also filed a memo dated 11.10.2023 to that effect, which is placed on record.



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4. Having regard to the aforesaid submissions made, the discretionary powers of this Court under Article 226 of the Constitution cannot be invoked to grant relief in the nature as now sought by the Petitioners in these cases. In this context, reference must be made to the decision of the Hon'ble Supreme Court of India in ***Director of Settlements, A.P. -vs- M.R. Apparao*** [(2002) 4 SCC 638], where it has been held as follows:-

"17. One of the conditions for exercising power under Article 226 for issuance of a mandamus is that the Court must come to the conclusion that the aggrieved person has a legal right, which entitles him to any of the rights and that such right has been infringed. In other words, existence of a legal right of a citizen and performance of any corresponding legal duty by the State or any public authority, could be enforced by issuance of a writ of mandamus. "Mandamus" means a command. It differs from the writs of prohibition or certiorari in its demand for some activity on the part of the body or person to whom it is addressed. Mandamus is a command issued to direct any person, corporation, inferior courts or



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*Government, requiring him or them to do some particular thing therein specified which appertains to his or their office and is in the nature of a public duty. A mandamus is available against any public authority including administrative and local bodies, and it would lie to any person who is under a duty imposed by a statute or by the common law to do a particular act. In order to obtain a writ or order in the nature of mandamus, the applicant has to satisfy that he has a legal right to the performance of a legal duty by the party against whom the mandamus is sought and such right must be subsisting on the date of the petition (**Kalyan Singh v. State of U.P.** [AIR 1962 SC 1183]). The duty that may be enjoined by mandamus may be one imposed by the Constitution, a statute, common law or by rules or orders having the force of law...."*

Viewed from that perspective, it is not possible to entertain these Writ Petitions.

In the result, these Writ Petitions are dismissed. No costs.

11.10.2023

Maya



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NCS : Yes/No

Index: Yes/No

Note: Issue order copy by 31.10.2023.

To

1. The Commissioner
Hindu Religious and Charitable Endowments Department
119, Uthamar Gandhi Salai
Nungambakkam, Chennai – 600 034.
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P.D. AUDIKESAVALU, J.

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