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W.P.Nos.21437 to 21439 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2023

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Petition Nos. 21437 to 21439 of 2017
and
W.M.P.Nos.22419 to 22421 to 2017

T.Rajendiran	...Petitioner in W.P. No.21437 of 2017
Saroja	...Petitioner in W.P. No.21438 of 2017
Deelipan	...Petitioner in W.P. No.21439 of 2017

Versus

1.The Commissioner,
HR & CE Department,
No.119, Utthamar Gandhi Road,
Nungambakkam,
Chennai – 34.

2.The Joint Commissioner,
HR & CE Department,
Tiruchirappalli,
Tiruchi District.

3.The Assistant Commissioner,
HR & CE Department,
Ariyalur,
Ariyalur District.

4.The Executive Officer,
Arulmighu Selliamman Temple,



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Jayamkondam,
Udayarpalayam Taluk,
Ariyalur District.

.. Respondents in all the Petitions

5.Paneer Selvam

.. 5th Respondent in W.P.No.21438

5.Komathi

.. 5th Respondent in W.P.No.21439

Writ Petitions filed under Article 226 of the Constitution of India praying for a Writ of Certiorari, calling for the entire records relating to the notices of 4th respondent dated 24.07.2017 and quash the same as illegal.

For Petitioners : Mr. A. Gouthaman
in all the Writ Petitions

For Respondents : Mr. N.R.R. Arun Natarajan
Special Government Pleader
for R1 to R4 in all the Writ Petitions

COMMON ORDER

(Order of the Court was made by R.MAHADEVAN, J.)

The petitioners have come forward with these writ petitions, challenging the notices dated 24.07.2017 issued by the fourth respondent, calling upon them to vacate and handover the vacant possession of the lands belonging to Selliamman Temple, Jayamkondan, Udayarpalayam, Ariyalur District.

2. It is the case of the Petitioners that they have purchased the respective lands, which are in their occupation, by means of registered sale deeds dated 09.01.1995 from one Kumar, Son of Gopal Naidu. It is further stated that before the petitioners purchased the lands in question, their vendors



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were in continued and uninterrupted possession of the respective lands for several years. After the petitioners purchased the lands, they have transferred the electricity service connection in their names and are paying the taxes and charges to the authorities concerned. While so, on 24.07.2017, the impugned notices were served by the fourth respondent in which it was stated that the petitioners have encroached upon the temple lands and directed them to vacate and handover the vacant possession of the lands. According to the petitioners, the notices dated 24.07.2017 have been purportedly issued under Section 78 of The Hindu Religious and Charitable Endowments Act to which the fourth respondent has no jurisdiction. If at all, such a notice under Section 78 of the Act has to be issued only by the Joint Commissioner of HR & CE Department and therefore, the fourth respondent has no right to issue the notices dated 24.07.2017. The petitioners, by highlighting the said aspects, submitted their reply dated 02.08.2017 to the impugned notices. However, the respondents have not taken any action. Apprehending that the respondents may attempt to evict the petitioners from their respective lands, the Petitioners are before this Court by way of these Writ Petitions.

3. The learned counsel for the petitioners would contend that the lands comprised in Survey No. 189/7 are in occupation of the petitioners



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atleast for a period of 30 years. The petitioners have purchased these lands by means of registered sale deeds and are in possession and enjoyment of the same on their own right. In any event, the fourth respondent has no right to issue the notices, which are impugned in these writ petitions. The learned counsel for the petitioners therefore prayed for allowing these writ petitions as prayed for.

4. The learned Special Government Pleader appearing for the respondents 1 to 4 submitted that in response to the notices issued by the fourth respondent, which are impugned in these writ petitions, the petitioners appeared before the fourth respondent for an enquiry. The notices impugned in these writ petitions have not been issued under Section 78 (2) of the HR & CE Act. In fact, after conducting such a preliminary enquiry, the fourth respondent forwarded a report based on which notices dated 18.02.2023 were issued under Section 78 (2) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 by the Joint Commissioner, Tamil Nadu Hindu Religious and Charitable Endowments Department during which the statements of the petitioners were also recorded. Thus, the second respondent is now conducting an enquiry as contemplated under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act. Therefore, the



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learned Special Government Pleader prayed for dismissal of the writ petitions.

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5. Heard the learned counsel for the parties and perused the materials placed on record. Given the nature of dispute raised in these writ petitions, this Court is not inclined to go into the disputed questions of fact. However, we feel that it is sufficient to direct the second respondent, before whom the petitions filed by the petitioners, with the supportive documents, are pending, to consider the claim of the petitioners and thereafter, decide the matter on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order, after affording sufficient opportunity of hearing to all the parties concerned. Till such time, the possession of the petitioners shall not be disturbed.

6. With the above directions, these Writ Petitions are disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

[R.M.D., J] [M.S.Q., J]
08.02.2023

ay/rsh

Index : Yes/No

Neutral Citation : Yes/No

Speaking/Non-Speaking Order



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WEB CUM

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R. MAHADEVAN, J
and
MOHAMMED SHAFFIQ, J

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