



W.P. No. 32048 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2023

CORAM

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

**W.P. No. 32048 of 2023
and
W.M.P. No. 31642 of 2023**

1. Kaveri
2. V.Natesan
3. P.Vadivel
4. N.Vairavel
5. A.Kandasamy
6. P.Ezhumalai
7. V.Perumal
8. P.Arul
9. V.Kailasam
10. M.Govindaraj
11. D.Perumal
12. N.Govindaraj
13. N.Rathinam

... Petitioners



W.P. No. 32048 of 2023

-VS-

1. The Commissioner
Hindu Religious and Charitable Endowment Department
119, Nungambakkam High Road
Chennai – 600034.
2. The Joint Commissioner
Hindu Religious and Charitable Endowment Department
Salem – 636 001.
3. The Assistant Commissioner
Hindu Religious and Charitable Endowment Department
Salem – 636 001.
4. The Executive Officer cum Fit Person
(Arulmighu Kailasanathar Temple, Tharamangalam)
Hindu Religious and Charitable Endowment Department
Arulmighu Mariamman Temple
Chikkampatty, Omalur Taluk
Salem District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to proceedings passed by the Third Respondent in Na.Ka.No.5501/2017-1/E2/dated 26.07.2023 and quash the same consequently directing the Respondents to lift the seal put up by the Third Respondent on 11.08.2023 in the Petitioners house.

For Petitioners : Mr. R.Sethuvarayar

For Respondents : Mr. K.Karthikeyan,
Government Advocate



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ORDER

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Heard Mr. R.Sethuvarayar, Learned Counsel for the Petitioners and Mr. K.Karthikeyan, Learned Government Advocate , who takes notice for the Respondents and perused the materials placed on record, apart from the materials placed on record.

2. The Second Respondent by Order dated 11.02.2020 in M.P. Nos. 28-43/2018/A1 in the exercise of powers under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (hereinafter referred to as 'the TN HR & CE Act' for short) had directed the eviction of the Petitioners from their occupation of the property measuring an extent of 5.76 acres in Survey No. 55 in Sikkampatti Village of Omalur Taluk in Salem District, belonging to the Temple of the Fourth Respondent. Since the Petitioners did not vacate from that property, the Third Respondent invoked Section 79(1) of the TN HR & CE Act by Proceedings in Na.Ka.No.5501/2017-1/E2/dated 26.07.2023 to take possession of that property and had on 11.08.2023 sealed it, which is assailed by the Petitioners in this Writ Petition.



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3. It is the case of the Petitioners that they have already filed suits in O.S. Nos. 76 to 78 of 2017 before the District Munsif Court, Omalur seeking relief of declaration of title and permanent injunction in respect of the said property against the authorities under the HR & CE Act and though the said suits have been dismissed for default on 05.03.2022, applications for their restoration along with applications to condone the delay in filing the same in M.P. No. 1 of 2022 have been filed in that court, which are posted for next hearing on 05.12.2023 and in that backdrop, the Petitioners have sought for directions to the Respondents to remove the seal from that property.

4. As already noticed, the eviction of the Petitioners from the property have been ordered on 11.02.2020 and it was incumbent upon the Petitioners to have diligently prosecuted their suits under Section 79(2) of the TN HR & CE Act, if they had wanted to retain possession. Inasmuch as those suits had been dismissed for default on 05.03.2022, the Respondents cannot be blamed for implementing the eviction order by sealing the property following the due process of law.

5. At the same time, having regard to the aforesaid submissions made, the Respondents shall maintain *status quo* as existing as on date till the disposal of



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the said applications in those suits, and the Petitioners and the Respondents shall attend the next hearing of the same and the subsequent dates to which they are adjourned so as to expedite their disposal following the prescribed procedure and there shall be atleast one effective hearing every week showing progress of the case and monthly reports of their status shall be sent to the Registrar (Judicial) of the Court. It is needless to add here that while deciding the matter, the District Munsif Court, Omalur, shall not be influenced or inhibited by the earlier orders passed and depending upon its outcome, the parties may work out their further course of action in accordance with law.

In the result, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

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Index: Yes/No
NCC: Yes/No

Note: Issue order copy by 29.12.2023.

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To

1. The Commissioner
Hindu Religious and Charitable Endowment Department
119, Nungambakkam High Road
Chennai – 600034.
2. The Joint Commissioner
Hindu Religious and Charitable Endowment Department
Salem – 636 001.
3. The Assistant Commissioner
Hindu Religious and Charitable Endowment Department
Salem – 636 001.
4. The Executive Officer cum Fit Person
(Arulmighu Kailasanathar Temple, Tharamangalam)
Hindu Religious and Charitable Endowment Department
Arulmighu Mariamman Temple
Chikkampatty, Omalur Taluk, Salem District.

Copy to

1. The Registrar (Judicial),
Madras High Court,
Chennai – 600 104.
2. The Judge,
District Munsif Court
Omalur.
3. Kaveri,
S/o. Perumal,
Chikkampatty Village,
Seeraikadi, Periakadampatty,
Omallur Taluk, Salem District.
4. V.Natesan,
S/o. Vellaiyan,
Chikkampatty Village,
Seeraikadi, Periakadampatty,
Omallur Taluk, Salem District.



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5. P.Vadivel,
S/o. Nallan,
Chikkampatty Village,
Seeraikadi, Periakadampatty,
Omallur Taluk, Salem District.

6. A.Kandasamy,
S/o. Arumugam,
Chikkampatty Village,
Seeraikadi, Periakadampatty,
Omallur Taluk,
Salem District.

7. P.Ezhumalai,
S/o. Perumal,
Chikkampatty Village,
Seeraikadi, Periakadampatty,
Omallur Taluk,
Salem District.

8. V.Perumal,
S/o. Vallaiyan,
Chikkampatty Village,
Seeraikadi, Periakadampatty,
Omallur Taluk,
Salem District.

9. P.Arul,
S/o. Perumal,
Chikkampatty Village,
Seeraikadi, Periakadampatty,
Omallur Taluk,
Salem District.

10. V.Kailasam,
S/o. Vellaiyan,
Chikkampatty Village,
Seeraikadi, Periakadampatty,
Omallur Taluk,
Salem District.



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11. M.Govindaraj,
S/o. Marimuthu,
Chikkampatty Village,
Seeraikadi, Periakadampatty,
Omallur Taluk,
Salem District.

12. D.Perumal,
S/o. Duraisamy
Chikkampatty Village,
Seeraikadi, Periakadampatty,
Omallur Taluk,
Salem District.

13. N.Govindaraj,
S/o. Nallan
Chikkampatty Village,
Seeraikadi, Periakadampatty,
Omallur Taluk,
Salem District.

14. N.Rathinam,
S/o. Narayanan,
Chikkampatty Village,
Seeraikadi, Periakadampatty,
Omallur Taluk,
Salem District.



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P.D. AUDIKESAVALU, J.

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