



W.P.(MD).Nos.14489, 15507 and 15988 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 04.12.2023

CORAM

**THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN**

W.P.(MD).Nos.14489, 15507 and 15988 of 2013
and

M.P.(MD).Nos.1, 1, 1, 2, 2 of 2013 and W.M.P.(MD).No.2011 of 2018

W.P.(MD).No.14489 of 2013

Mother Superior,
Amali Girl's Higher Secondary School,
Vickramasingapuram,
Ambasamudram Taluk,
Tirunelveli District.

.. Petitioner

Vs.

- 1.The Commissioner,
Hindu Religious and Charitable Endowment Department,
Chennai.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Tirunelveli – 2.
- 3.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Tirunelveli – 2.



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4.The Executive Officer,
Pillayan Arthasaam Kattalai,
Papanasam,
Ambasamudram Taluk,
Tirunelveli District

.. 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 pertaining to the impugned exparte order passed by the 2nd respondent in M.P.No.1 of 2013 dated 01.07.2013 and quash the same and consequently direct the 2nd respondent to consider the petitioner request of purchase as per the communication of the 1st respondent dated 09.03.2010 in ஓ.மு.எண். 13916/2010 வி3 dated 09.03.2010.

For Petitioner : Mr.S.Rozario Sundaraj
For Respondents : Mr.P.Subbaraj
Special Government Pleader for R-1 to R-3
Mr.K.Sreekumaran Nair for R-4

W.P.(MD).No.15507 of 2013

Mother Superior,
Amali Convent,
Vickramasingapuram,
Ambasamudram Taluk,
Tirunelveli District.

.. Petitioner

Vs.



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- 1.The Commissioner,
Hindu Religious and Charitable Endowment Department,
Chennai.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Tirunelveli – 2.
- 3.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Tirunelveli – 2.
- 4.The Executive Officer,
Pillayan Arthasaam Kattalai,
Papanasam,
Ambasamudram Taluk,
Tirunelveli District

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari, to call for the records pertaining to the impugned order passed by the 3rd respondent in Na.Ka.No.6945/2012-3 ஆ1/ dated 12.09.2013 and quash the same.

For Petitioner : Mr.S.Rozario Sundaraj
For Respondents : Mr.P.Subbaraj
Special Government Pleader for R-1 to R-3
Mr.K.Sreekumaran Nair for R-4



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W.P.(MD).No.15988 of 2013

Mother Superior,
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.. Petitioner

Vs.

- 1.The Commissioner,
Hindu Religious and Charitable Endowment Department,
Chennai.
- 2.The Joint Commissioner,
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Tirunelveli – 2.
- 3.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Tirunelveli – 2.
- 4.The Executive Officer,
Pillayan Arthasaam Kattalai,
Papanasam,
Ambasamudram Taluk,
Tirunelveli District

5.Mariappan

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari, to call for the records pertaining to the impugned order passed by the first respondent in Na.Ka.No.12629/2009 V3-1 dated 13.03.2012 and quash the same as illegal.



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For Petitioner : Mr.S.Rozario Sundaraj

For Respondents : Mr.P.Subbaraj
Special Government Pleader for R-1 to R-3
Mr.K.Sreekumaran Nair for R-4
Mr.P.Subbiah for R-5

COMMON ORDER

(Order of the Court was made by V.LAKSHMINARAYANAN,J.)

The Writ Petition in W.P.(MD).No.14889 of 2013 has been filed for issuance of a Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the 2nd respondent in M.P.No.1 of 2013 dated 01.07.2013 and quash the same and consequently direct the 2nd respondent to consider the petitioner's request of purchase as per the communication of the 1st respondent dated 09.03.2010.

2. The facts leading the Writ Petition are not complicated. The following properties situated at Vickramasingapuram Village, Ambasamudram Taluk, Tirunelveli District, admittedly belong to the fourth respondent.

S.No.	Survey No	Extent (Acre. Cent)
1.	407/1	6.70



2.	388/1A	1.87
3.	388/4	0.85
4.	387/1	1.58
5.	Total	11.00

The fourth respondent is a “specified endowment” within the meaning of the Hindu Religious and Charitable Endowments Act (hereinafter referred to as 'HR and CE Act'). The fourth respondent had been established for the purpose of performance of Kattalais in the Arulmigu Papanasaswamy Temple in Tirunelveli District. The fourth respondent owns vast extent of properties, of which, the aforesaid 11 acres are the subject matter of the Writ Petition.

3. It seems that the petitioner was originally in possession of 44 acres of land belonging to the fourth respondent, which had been taken on lease. On account of the dispute that arose between the petitioner and the fourth respondent, a suit came to be filed in O.S.No.253/1980 on the file of the District Munsif Court at Ambasamudram. After full trial, the suit came to be dismissed. Against which, an appeal was preferred before the Sub Court at Tenkasi in A.S.No.29 of 1985.



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4. Pending the first appeal, the writ petitioner came up with an offer to settle the matters. Accordingly, out of the total extent of 42 acres and 26 cents then in occupation of the writ petitioner, it agreed to surrender 31 acres and 36 cents to the fourth respondent while retaining 11 acres. Accepting the compromise, the Commissioner, Hindu Religious and Charitable Endowments Department (hereinafter referred to as HR and CE Department), authorised the withdrawal of A.S.No.29 of 1985 on the file of the Sub Court, Tenkasi.

5. Subsequent to this proceeding, an agricultural lease deed was entered into between the petitioner and the fourth respondent. As per the terms of the lease deed, an yearly income of Rs.2000/- (for each fasli) was to be paid by the writ petitioner to the fourth respondent. The relevant portions of the deed show that the property should be maintained as a “ryoti land” and the writ petitioner should use it only for cultivating purposes.

6. Alleging that the writ petitioner had converted the agricultural land



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to non-agricultural use, in particular, putting up of superstructures, a notice was issued terminating the lease by the fourth respondent on 22.10.2012.

This was received and replied to by the writ petitioner on 01.11.2012. Since possession was not handed over, M.P.No.1 of 2013 was initiated before the Joint Commissioner, Hindu Religious and Charitable Endowments Department, Tirunelveli.

7. On service of notice, a reply was filed by the writ petitioner admitting to the lease, but denying that it was only for agricultural purposes. It was pleaded that Item Nos.2 to 4 in the aforesaid tabular column were not agricultural lands. The specific averment states that with the consent of the fourth respondent, school buildings were constructed over the lands and therefore, the case of the fourth respondent is a false one. It was further pleaded that the construction of the school is for the upliftment of women in the area and the properties are not being used for any commercial purpose. The petitioner also averred that it is ready to purchase the properties and pleaded that the entire case has been instituted at the instance of one Mariappan and therefore, the petition was not maintainable.



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8. The second respondent considered the arguments and found as follows:

(i) Section 78 of the Hindu Religious and Charitable Endowments Act as amended by Tamil Nadu Act 39 of 1996 empowers the Joint Commissioner to pass orders of eviction.

(ii) The fourth respondent is the owner of the property.

(iii) The fourth respondent is getting meagre income from its properties.

(iv) The petitioner had constructed the building against the terms of the original lease deed dated 26.09.1989.

(v) No proof of consent to construct buildings had been let in by the petitioner.

(vi) The writ petitioner cannot plead that it is entitled to continue in lease because the lease had been executed on 26.09.1989 and any period of lease beyond the period of five years, not having the consent as per Section 34 of the Act, is null and void.



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(vii) There being no valid tenancy either from the Commissioner or from the Executive Officer of the fourth respondent, the petitioner is in unauthorised occupation and hence, an encroacher.

9. On the basis of the aforesaid findings, the Joint Commissioner ordered eviction. It is pertinent to point out that though the fourth respondent had let in evidence through its Executive Officer, the writ petitioner did not cross-examine the fourth respondent, did not let in any evidence or examine any one on its behalf. It is this order which has been challenged before us.

10. Before dwelling into the merits of the case, it is necessary to decide whether the second respondent has the jurisdiction to decide the issue. The HR and CE Act of 1959 suffered an amendment under Act 39 of 1996. The said Act came into force on 9th December, 1996. By virtue of this amendment, Section 78 was inserted in the said Act. As per Section 78, the Assistant Commissioner of the jurisdictional area either *suo motu* or on the complaint by the trustee, if he has a reason to believe that a person is an



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“encroacher”, as defined under the Act, should report to the Joint Commissioner having jurisdiction over the area. If the Joint Commissioner after perusal of the report is satisfied that there is a *prima facie* case in the report filed by the Assistant Commissioner, he shall issue a show cause notice to the alleged encroacher. After giving an opportunity to the encroacher to file objections, the Joint Commissioner, if he is satisfied that there has been an encroachment, he is empowered to pass orders directing removal of encroachment. Before passing an order of eviction, the Joint Commissioner has to consider the objections raised by the alleged encroachers and should give them an opportunity and only after recording the reasons thereof, he can pass an order. This view has been settled by this Court in the case of *Narayanan Vs. State of Tamil Nadu and others in 2012 (4) Mad LJ 37 (DB)*. The relevant portions are extracted hereunder:

“14. ...When the occupation of the Appellants/Petitioner is without the approval of the Competent Authority, they fall under the category (a) of the Explanation to Section 78(1) and they can only be termed as encroachers. Even assuming that some of the Appellants have been admitted as tenants/lessees.



as per lease agreement, even then, when such lease or tenancy has expired or terminated or cancelled and they continue to remain in the property, they come under the category of (b) to be called as encroachers. ...

15. When such a conclusion is arrived at, then the procedure contemplated under Section 78(2) & (4) has to follow, that is to say, the Joint Commissioner has to issue the Show Cause Notice for removal of encroachment and thereafter considering the objections and conducting an enquiry, after recording the reasons has to pass an order of eviction. The Joint Commissioner could not pass an order according to his whims and fancies. Before passing the order of eviction, he has to consider the objections raised by the encroachers and should conduct an enquiry after giving an opportunity of hearing to the parties and, after recording the reasons for coming to such a conclusion, he has to pass the order.”

11. As to who is an encroacher is also defined by the explanation to Section 78 of the Act, which reads as follows:

“Explanation.— For the purpose of this section, the expression “encroacher” shall mean any person who unauthorisedly occupies any tank, well, spring or water-course or any



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property and to include-

- (a) any person who is in occupation of property without the approval of the competent authority (sanctioning lease or mortgage or licence) and*
- (b) any person who continues to remain in the property after the expiry or termination or cancellation of the lease, mortgage or licence granted to him.*

This concludes that there must a petition filed by the trustee or the Assistant Commissioner by a *suo motu* report and submit a report to the Joint Commissioner. The Joint Commissioner after complying with the requirements of the Act should pass an order. Therefore, while considering the issue of jurisdiction, we are satisfied that the Joint Commissioner, HR and CE Department is empowered to pass an order of eviction under Section 78 of the Act.

12. Now turning to the facts of this case, there is no dispute as regards the title of the fourth respondent. The plea of the writ petitioner is that it has been in occupation of the property pursuant to the lease agreement entered into between himself and the fourth respondent from 26.09.1989.



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The plea is that of a permanent lease. Whether there could be a permanent lease of a property, post the enactment of the HR and CE Act, has to be considered in the light of Section 34 of the Act. As per Section 34(1), if any lease exceeds a period of five years belonging to a religious institution, the same must be sanctioned by the Commissioner. In case such sanction is not obtained, the Act declares the said lease to be null and void. Therefore, the burden lay on the petitioner to prove that it was under a valid lease after 26.09.1994, if five years is to be calculated from the date of lease deed or after 30.06.1995, if fasli year is to be taken into consideration. It has been fairly admitted by Mr.Rozario Sundaraj, learned counsel appearing for the writ petitioner that there is no lease after 26.09.1994.

13. This Court while dealing with a similar issue in the case of ***Palani Arulmighu Dhandayuthapani Swamy Thirukkoil Vs. G.Ragavan and others in 2015 (1) Mad LJ 807***, held that once the lease period comes to an end, the status of a tenant under a Hindu religious institution governed by the HR and CE Act, is that of an encroacher. The Court further held that it is always open to the religious institutions to issue a notice and seek



recovery of possession from a person in occupation. The relevant portions of the judgment are extracted hereunder:

“9.5. It is not the case of the plaintiffs that the property did not belong to the defendants. It is not the case of the plaintiffs that there is violation of Sections 78 and 79 of the HR & CE Act. Admittedly, the lease period has come to an end by 30.06.2012. Therefore, as per the definition given, the status of the plaintiffs is that of an encroacher.

...

10.1. As per the provisions contemplated under Section 78 of the Act, the Assistant Commissioner, having jurisdiction either suo motu or upon a complaint made, if has reasons to believe that any person has encroached upon the property belonging to religious institution or endowment, he shall submit a report to the Joint Commissioner.

10.2. The Joint Commissioner, on receipt of the report, if finds that there is a prima facie case of encroachment, he shall issue notice specifying the particulars of encroachment, calling upon the encroacher to show-cause before a certain date, why an order requiring him to remove the encroachment should not be made. If the encroacher files an objection, after conducting enquiry, if the Joint Commissioner is satisfied that there has been encroachment, he may direct or require the encroacher to



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remove the encroachment.”

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14. Applying the above stated principles to this case, post expiry of lease, the occupation of the writ petitioner is that of an encroacher as defined under Section 78 of the HR and CE Act. Therefore, not only was the Joint Commissioner statutorily empowered to deal with the issue, but he had applied the correct law to the facts of the case and came to a conclusion that the writ petitioner is an encroacher and directed eviction.

15. Under the Transfer of Property Act, a tenant who continues in occupation of the property post the expiry of his lease is termed as 'tenant holding over'. If the tenant continues in occupation after the lease is terminated, he is a tenant at sufferance. The status of such a person fell for consideration before the Supreme Court in the case of ***Nand Ram and others Vs. Jagdish Prasad in (2020) 9 SCC 393***. The Court held that a “tenant at sufferance” is one who wrongfully continues in possession after the extinction of lawful title. A tenancy at sufferance has been created by legal fiction to avoid continuance in possession of a trespasser. He continues to remain in possession of the property in that status till



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possession is restored to the landlord. His possession is protected by law, but it is only juridical. The landlord is entitled to eject such a tenant from the property lawfully. That is the reason why insofar as such a tenant is concerned, the amount that is paid by him is not treated as rent, but it is treated as mesne profits for use and occupation of the property.

16. The HR and CE Act makes a departure from this general principle by the insertion of Section 78 of the Act. The Act does not make a difference between a “tenant holding over” or a “tenant at sufferance”. If a tenant, lessee or a mortgagee continues in possession of the property after the period has expired, the Act declares him to be an encroacher. Therefore, on the admitted facts of this case, we cannot reach to any other conclusion, but that the writ petitioner is an encroacher.

17. It is pertinent to point out here that though allegations are made against one Mariappan of having been inimically disposed of the writ petitioner and hence, proceedings were initiated against the petitioner, it matters not to the present case. The argument of Mr.Rozario Sundaraj that



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the whole proceedings had been initiated at the instance of Mariappan and therefore, the writ petitioner should not be evicted pale into insignificance. once it is shown and admitted that there was no extension of lease that had been granted in favour of the writ petitioner after the original period had expired.

18. The statutory explanation to this Rule has been brought about under Section 78 of the HR and CE Act. The explanation which has been extracted above makes it clear that statutorily, a tenant continuing in occupation of the property after his lease period has expired has to be treated as an “encroacher” and is liable to be proceeded against as per the terms of that Section.

19. Though the lease agreement was entered into on 26.09.1989, it commences only from the fasli year 01.07.1990. We gave that benefit to the writ petitioner. Even then, on the date of commencement of the proceedings before the second respondent in M.P.No.1/2013, there being no valid lease, the writ petitioner has to be treated as an encroacher. This is because the



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lease amounts are collected by religious institutions on the basis of the fasli year. Therefore, continuance after a period of five years from 01.07.1990 has to be treated as coming within the explanation to Section 78(1) of the Act and therefore, the petitioner has no status than that of an encroacher.

20. Mr.Rozario Sundaraj would argue that the writ petitioner cannot be accused of having converted the agricultural land into buildings as the same was with the consent of the landlord. It is here that the terms of the lease agreement dated 26.09.1989 become relevant. The agreement itself states that it is an agricultural lease. In case, the plea of the tenant is that while during the subsistence of the agricultural lease, he has put up superstructures, the burden lies on the writ petitioner to prove the same. Unfortunately, in this case, no such evidence had been let in before the second respondent.

21. We further have to add that it is not open to the writ petitioner to argue that it put up the building, when it had taken possession of the property in terms of the lease deed executed as per Section 21 of the Tamil



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Nadu Public Trusts (Regulation of Administration of Agricultural Lands)

Act, 1961. Having taken the property as an agricultural land, it is not open to the writ petitioner to argue that it had put up the construction over the buildings with the consent of the fourth respondent. In fact, not even a shred of evidence has been produced before the Joint Commissioner or even before this Court to substantiate the alleged consent given by the fourth respondent for putting up the construction.

22. An argument was submitted by Mr.Rozario Sundaraj that the hearing had taken place in absence of the writ petitioner. It is not the duty of the second respondent to go in search of the writ petitioner and ask him to participate in the proceedings. Perusal of the records shows that on receipt of the report from the Assistant Commissioner dated 27.11.2012, the Joint Commissioner was *prima facie* satisfied that an encroachment existed. Therefore, he had issued a notice dated 28.01.2013. To this notice, the petitioner also filed a counter on 17.04.2013. Despite the fact that the petitioner filed its counter and the fourth respondent filed his proof affidavit and supportive documents, the writ petitioner had not taken any efforts to



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cross-examine the fourth respondent.

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23. When opportunity is granted to a person and he does not avail of such opportunity, it is not open to him to subsequently plead that there has been a violation of principles of natural justice. It is not the case of the writ petitioner that opportunity had not been granted. From the records, it also cannot be the case of the writ petitioner. This is because a notice was issued before the proceedings by the fourth respondent and by the second respondent after initiation of Section 78 proceedings and the writ petitioner had also filed a counter to the same. If, after filing of the counter, the writ petitioner did not participate in the proceeding, it has no one else to blame but itself.

24. We are also conscious of the fact that the petitioner is possessed of sufficient funds, since it has made an offer not only in the affidavit filed in support of the Writ Petition, but also before the Joint Commissioner at least a decade ago that it was willing to purchase the property. Hence, the writ petitioner would not be adversely affected by the order of eviction. It being possessed of funds, it can always re-establish itself elsewhere.



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Having taken the property on an agricultural lease and unilaterally having put up superstructure without the consent of the religious institution, we have to recollect the principle that such a construction is not only against the provisions of the HR and CE Act, but also against the general principles of lease enshrined under the Transfer of Property Act. Even between individual tenants and landlord, it is not open to a tenant to unilaterally put up a superstructure. Such a construction, if of permanent nature, would fall foul of the Transfer of Property Act. Here is the case of the religious institution, which had given the property on agricultural lease, but unfortunately, the writ petitioner for reasons best known to itself, was emboldened to put up a superstructure over the property.

25. We have to remember that while dealing with a petition under Article 226 of the Constitution of India, this Court is not exercising the power as an Appellate Court or even that of a revisional Court. The jurisdiction is supervisory and visitorial. All that we have to deal with the decision making process and not with the decision itself. Nonetheless, due to the persuasive arguments of Mr.Rozario Sundaraj, we decided to scan the



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materials and find out if the decision of the second respondent is correct.

Applying Sections 34 and 78 of the HR and CE Act to the facts of the case, we are clear that the order of the second respondent is correct and does not require interference at the hands of this Court.

26. This takes us to the second portion of the prayer in the Writ Petition. Mr.Rozario Sundaraj submitted the writ petitioner is willing to purchase the property from the fourth respondent. Section 34 of HR and CE Act prescribes a manner in which a property belonging to a religious institution can be alienated. The power is vested with the Commissioner of HR and CE Department. Even the Commissioner cannot exercise the power unless and until it satisfies two conditions. They are:

- (i) it is necessary for the institution or
- (ii) it would be beneficial to the institution.

This power too cannot be exercised unless and until it has the previous approval of the Government. Therefore, the prayer of the writ petitioner for a Mandamus to direct alienation of the property is not maintainable. It is the discretion that has to be exercised by the Commissioner, which is



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circumscribed with the two conditions set forth above and even that discretion is further burdened with the condition that it must have the approval of the Government. Therefore, we are not in a position to grant the second relief either.

27. Mr.Rozario Sundaraj would argue that as children are studying in the writ petitioner school, eviction should not be ordered. This is a plea, which, we feel, seeks to use the students to perpetuate the illegality indulged in by the writ petitioner. The writ petitioner was well aware even when the notice was issued terminating the lease in 2012 that it is in litigious possession. Further, when it faced the proceedings before the Joint Commissioner also, it was aware that eviction proceedings had been initiated. Despite this fact, it proceeded and admitted students in its institution. Today, if the students, who have come into the institution pending the litigation, have to be projected for the purpose of denying the right of the religious institution (the fourth respondent), then we will be perpetuating the illegality indulged in by the writ petitioner. The writ petitioner should have been cautious when the owner demanded the property to be surrendered to it. However, it took a chance of indulging in



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the game of litigation. Therefore, we are not inclined to defeat the right of the fourth respondent, since the writ petitioner has admitted students pending the litigation. The students are nothing, but a smoke screen, for the entire idea of the writ petitioner seems to be to continue in possession of the fourth respondent's property.

28. Nonetheless, in a proceeding like this, we have to balance the interest of the writ petitioner and the owner, namely, the religious institution. If the petitioner is removed abruptly from the property, it would cause undue hardship to the students studying in the institution. Mr.Rozario Sundaraj pleaded that the writ petitioner is running a school and orphanage. It is the duty of the Court to balance the interest of the owner and that of the person in occupation of the property, though an encroacher. While we have to consider the interest of the fourth respondent – religious institution, we cannot be oblivious to the interest of the writ petitioner also. It requires a fine balance. Taking into consideration that the school is running in the said institution, time is granted to the writ petitioner to surrender possession at the end of the academic year, namely, 31.03.2024.



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29. In view of the above, the writ petitioner is granted four months' time to remove the encroachment and deliver vacant possession of the property to the fourth respondent and inform the Assistant Commissioner, HR and CE Department, Tirunelveli. Failing which, the respondents 2 and 3 are directed to exercise the powers vested with them under Section 79(1) of the Act and take possession of the encroached property. To avail the benefit of this time, the writ petitioner shall file an affidavit of undertaking that it shall hand over possession of the property without inducting any third party into possession and without forcing the fourth respondent to resort to measures under Section 79 of the Act within a period of two (2) weeks from today, i.e., on or before 18.12.2023.

30. We would usefully recollect the view of the Supreme Court in the case of *A.A. Gopalakrishnan v. Cochin Devaswom Board*, (2007) 7 SCC 482, which is extracted hereunder:

“10. The properties of deities, temples and Devaswom Boards, require to be protected and safeguarded by their trustees/archakas/shebaites/employees. Instances are many where persons entrusted with the duty of managing and



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safeguarding the properties of temples, deities and Devaswom Boards have usurped and misappropriated such properties by setting up false claims of ownership or tenancy, or adverse possession. This is possible only with the passive or active collusion of the authorities concerned. Such acts of “fences eating the crops” should be dealt with sternly. The Government, members or trustees of boards/trusts, and devotees should be vigilant to prevent any such usurpation or encroachment. It is also the duty of courts to protect and safeguard the properties of religious and charitable institutions from wrongful claims or misappropriation.”

It is the duty of the Court to ensure that persons in illegal occupation of the property do not continue their possession. By filing several Writ Petitions, the writ petitioner has managed to continue in possession of the property. The plea that it is doing service to the Society is of no avail, as it is always open to the petitioner to do the same service elsewhere and not insist on being in occupation of the property belonging to the fourth respondent. The claim of the petitioner that it is doing service and therefore, it is entitled to encroach upon the lands of the fourth respondent does not appeal to us.



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31. We notice from the impugned order that the fourth respondent owns about 9.44.50 hectares of wet lands and 153.47.00 hectares of dry lands in Vickramasingapuram. The second respondent has lamented that though the fourth respondent is the owner of such vast extent, it is hardly getting an income of Rs.5000/- and unable to perform the Kattalai, for which it had been created. The respondents 2 and 3 are directed to take immediate steps and ensure that the properties of the fourth respondent are freed from the encroachments and if necessary, proper leases are to be executed so as to enable the fourth respondent to perform its duties. In case, the occupants of the property belonging to the fourth respondent are not willing to execute lease deeds in terms of the HR and CE act and by fixing fair rent, then the respondents 2 and 3 shall take immediate steps against such recalcitrant occupants in terms of Section 78 of the Act without any delay.

32. Accordingly, the Writ Petition in W.P.(MD).No.14889 of 2013 stands dismissed. As we have found that the writ petitioner is an encroacher, consequently, the relief sought for in W.P.(MD).Nos.15507 and



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15988 of 2013 cannot be granted and the said Writ Petitions are dismissed.

There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

(S.M.S.,J.) (V.L.N.,J.)
04.12.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm

To

- 1.The Commissioner,
Hindu Religious and Charitable Endowment Department,
Chennai.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Tirunelveli – 2.
- 3.The Assistant Commissioner,
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