



W.P. (MD) No. 12318 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 03.01.2023

CORAM

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

W.P. (MD) No. 12318 of 2021

and

W.M.P. (MD) No.9671 of 2021

1. Saravanan
2. Amsavalli
3. Annalakshmi
4. Meenambal
5. Ravichandran
6. Madhavi
7. Pushbavalli
8. Seethalakshmi
9. Parvathi
10. Jeyalilli
11. Lakshmanan
12. Gomathi
13. Packkiyam

... Petitioners

-VS-



W.P. (MD) No. 12318 of 2021

1. The Commissioner,
Hindu Religious and Charitable
Endowments and Department,
Nungambakam, Chennai.
2. The Joint Commissioner,
Hindu Religious and Charitable
Endowments and Department,
Sivagangai District.
3. The Executive Officer,
Arulmigu Gowri Vinayagar Temple,
Sivagangi Town, Sivagangai District.
4. The Assistant Commissioner,
Hindu Religious and Charitable
Endowments and Department,
Sivagangai District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, for issue of Writ of Mandamus, directing the 3rd and 4th Respondents not to demolish the petitioners' house property in Survey No.341 on the file of the Kanjarangal Revenue Village, Sivagangai Taluk, Sivagangai District and consequently direct the First Respondent to number and dispose the Revision Petitions against the order of M.P.Nos.22, 8, 19, 30, 10, 31, 15, 26, 16, 25, 13, 27, 12 of 2018 filed by the petitioners to set aside the ex-parte order dated on 25.07.2019, 25.07.2019, 25.07.2019, 19.09.2019, 27.02.2020, 25.07.2019, 19.09.2019, 05.12.2019, 28.11.2019, 22.08.2019, 22.08.2019, 19.09.2019, 24.10.2019.

For Petitioners : Mr. R.Udhayakumar



W.P. (MD) No. 12318 of 2021

For Respondents : Mr. VR.Shanmuganathan (for R3)

Mr. Veera Kathiravan
Additional Advocate General
assisted by
Mr. D.Gandhiraj
Special Government Pleader
(for R1, R2 & R4)

WEB COPY

ORDER

Heard Mr. R.Udhayakumar, Learned Counsel for the Petitioner, Mr. D.Gandhiraj, Learned Special Government Pleader appearing for the First, Second and Fourth Respondents and Mr. VR.Shanmuganathan, Learned Counsel appearing for the Third Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. This Writ Petition has been filed for directing the Third and Fourth Respondents not to demolish the petitioners' house property in Survey No.341 at Kanjarangal Revenue Village, Sivagangai Taluk, Sivagangai District and consequently to direct the First Respondent to number and dispose the Revision Petitions filed by the Petitioners.

3. The First Respondent has filed a Counter-Affidavit dated 11.08.2021



W.P. (MD) No. 12318 of 2021

stating as follows:-

“12. ... It is strictly denied that though the writ petitioners have filed Revision Petitions before the 1st respondent, no steps have been taken by the 1st respondent and the Revision Petitions were kept in a cold storage. The above contention of the petitioners is utterly false because they have not filed any Revision Petition before the 1st respondent either in physical mode or any other mode in the year 2019. Contrary to that the present writ petitioners have filed Revision Petitions before the 1st respondent to set aside the ex-parte orders passed by the 2nd respondent only one day prior to the filing of present writ petition (ie., the date of filing of Revision petitions is 13.07.2021 & the date of this Present writ petition filed is 14.07.2021). The said Revision Petitions were received by the 1st respondent's office only on 20.07.2021. Since, the petitions filed before the 1 respondent are not in a proper format as per the rules framed under "The Application and Appeal rules" and so returned on 23.07.2021 by the 1 respondent for the following reasons:-

- 1. The Revision Petition filed Under Section 21 of the TN H.R & CE Act 1959 against the impugned order passed by the Joint Commissioner should be filed as per the rules framed*



WEB COPY



W.P. (MD) No. 12318 of 2021

under "The Application and Appeal rules"

2. *The Revision Petition should be verified and signed by the Petitioner.*
3. *Notice Charges at the rate of Rs.30/- for each respondent should be paid at the office of the Assistant Commissioner concerned or at this office and the challan to be enclosed.*
4. *3 more additional copies of the Revision to be filed.*
5. *The Revision Petition has been filed out of time. There is a delay in filing. Copy of order is not received to calculate the delay if any.*
6. *In view of the order of Hon'ble Supreme Court of India made in C.A.No 4582/2019/dated 03.05.2019, the Commissioner, H.R & C.E Department is not empowered to condone the delay in filing petitions.*
7. *An Authenticated or a certified copy of the order should be filed vide Rule 8 of the Rules, under Section and (iii) of the Act. G.O.Ms.No 3158 dated 29.07.1961.*
8. *Court fee stamp of Rs. 10/- should be affixed in the Revision Petition.*

In fact, the writ petitioners have filed this present writ petition not



W.P. (MD) No. 12318 of 2021

WEB COPY

only after a lapse of one and half years period, but after the issuance of subsequent eviction notices issued by the 4th respondent under section 79 of the Act and hence it is not permissible to stop the eviction process as against the encroachers under section 78 and 79 of the act and the petitioners are not entitled as prayed for.”

It requires to be pointed out here that the Writ Petition has been filed on 14.07.2021 immediately after the presentation of the Revision Petition on 13.07.2021 before the First Respondent and the said Revision Petition was returned on 23.07.2021. This Court, at the time of admission on 22.07.2021 had required the Learned Government Advocate appearing on behalf of the Respondents to get instructions as to whether the Revision Petition said to have been filed by the Petitioner was in order. In view of the return of papers of the Revision Petition, the question of granting the relief as sought in the Writ Petition does not arise. However, it would not preclude the Petitioner from taking further action in terms of the return of papers as per law.

In fine, the Writ Petition is dismissed with the aforesaid observations. Consequently, the connected Miscellaneous Petition is closed. No costs.



WEB COPY



W.P. (MD) No. 12318 of 2021

03.01.2023

pkn

Index : Yes/No

Note: Issue order copy by 30.01.2023.

To

1. The Commissioner,
Hindu Religious and Charitable
Endowments and Department,
Nungambakam, Chennai.
2. The Joint Commissioner,
Hindu Religious and Charitable
Endowments and Department,
Sivagangai District.
3. The Executive Officer,
Arulmigu Gowri Vinayagar Temple,
Sivangani Town, Sivagangai District.
4. The Assistant Commissioner,
Hindu Religious and Charitable
Endowments and Department, Sivagangai District.



WEB COPY



W.P. (MD) No. 12318 of 2021

P.D. AUDIKESAVALU, J.

pkn

W.P.(MD)No. 12318 of 2021

03.01.2023