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W.A.(MD) Nos.1466 & 1467 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.09.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

**W.A.(MD) Nos.1466 & 1467 of 2023
and
C.M.P.(MD) Nos.11226 & 11227 of 2023**

Dr.A.Paul Murugan

... Appellant in W.A.(MD) No.
1466 of 2023

Valliammal

... Appellant in W.A.(MD) No.
1467 of 2023

-vs-

1.The Commissioner
Hindu Religious and
Charitable Endowments Department
Nungambakkam
Chennai-600 034

2.The Joint Commissioner
Hindu Religious and
Charitable Endowments Department
Thoothukudi
Thoothukudi District



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- 3.The Executive Officer
Arulmighu Meenakshi
Sundareswarar Thirukovil
Vilathikulam Taluk
Thoothukudi District
- 4.The District Collector
Thoothukudi District
Thoothukudi
- 5.The Revenue Divisional Officer
Kovilpatti Division
Thoothukudi District
- 6.The Tahsildar
Vilathikulam Taluk
Thoothukudi District

... Respondents in
both W.As.

Writ Appeal (MD) No.1466 of 2023 filed under Clause 15 of Letters Patent to set aside the order, dated 12.06.2023, passed in W.P.(MD) No.11453 of 2023, on the file of this Court.

Writ Appeal (MD) No.1467 of 2023 filed under Clause 15 of Letters Patent to set aside the order, dated 12.06.2023, passed in W.P.(MD) No.11459 of 2023, on the file of this Court.

For Appellant : Mr.S.Conscious Ilango
(in both W.As)

For Respondents : Mr.S.P.Maharajan
(in both W.As) Special Government Pleader



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COMMON JUDGMENT

[Judgment of the Court was made by S.S.SUNDAR, J.]

These writ appeals are directed against the order of the learned Single Judge, dated 12.06.2023, passed in W.P.(MD) Nos.11453 & 11459 of 2023.

2. The only grievance expressed by the learned counsel for the appellants is that the appellants can file a suit only if action is taken by the respondent – Temple under Section 78 or 79 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (for brevity, “the Act”).

3. The appellants claim title to their respective property and contend that they are in possession of the same for several decades. Therefore, the appellants, who are claiming a relief on the strength of their title, should approach the Civil Court, if they want to establish their title and get an order of injunction as against the respondent – Temple.



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4. Section 79(2) of the Act reads as follows:

“79. Mode of eviction on failure of removal of the encroachment as directed by the Joint Commissioner.

(1) ...

(2) Nothing in sub-section (1) shall prevent any person aggrieved by the order of the Joint Commissioner under sub-section (4) of Section 78 from instituting a suit in a Court to establish that the religious institution or endowment has no title to the property.”

5. Section 79(2) of the Act cannot be interpreted to mean that unless the Temple Authority takes action for removal of encroachment, the appellants cannot move the Civil Court to establish their title. Therefore, the submission of the learned counsel for the appellants cannot be countenanced.

6. Giving liberty to the appellants to approach the Civil Court to seek declaration of title and consequential relief, the writ appeals are disposed of. Further, taking lenient view in the matter, the costs imposed by the learned Single Judge is reduced from Rs.50,000/- to Rs.20,000/- (Rupees



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twenty thousand only) for each petitioner (in total, Rs.40,000/- (Rupees forty thousand only). No costs. Consequently, connected miscellaneous petitions are closed.

[S.S.S.R., J.]

[D.B.C., J.]

05.09.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To:

1.The Commissioner,
Hindu Religious and
Charitable Endowments Department,
Nungambakkam,
Chennai-600 034.

2.The Joint Commissioner,
Hindu Religious and
Charitable Endowments Department,
Thoothukudi,
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- 4.The District Collector,
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