



WP(MD)Nos.22945 to 22947 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 30.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)Nos.22945 to 22947 of 2023

and

WMP(MD)Nos.19164, 19165, 19167 of 2023

WP(MD)No.22945/2023:-

Palanivel

.. Petitioner

v.

- 1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
No.119, Uthamar Gandhi Salai,
Chennai – 600 034.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Tirunelveli Region,
Thiruvananthapuram Road,
Palayamkottai, Tirunelveli District.
- 3.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Mettu Theru, Vadiveeswaram,
Nagercoil – 629 002,
Kanyakumari District.



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4. The Fit Person,
Arulmigu Mutharamman Thirukovil,
Ramapuram Post, Sankaranputhoor,
Nagercoil, Kanyakumari District.

5. The Executive Officer,
Arulmigu Anchanamezhuthiya Kandan Sastha Temple,
Aasiramam,
Agastheeswaram Taluk,
Kanyakumari District.

6. M. Sankar .. Respondents

[R.6 impleaded vide order dated 30.10.2023]

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorari calling for the records relating to the impugned notice issued by the fifth respondent dated 01.06.2023 and quash the same.

WP(MD)No.22946/2023:-

Maharajan .. Petitioner

v.

1. The Commissioner,
Hindu Religious and Charitable Endowments Department,
No.119, Uthamar Gandhi Salai,
Chennai – 600 034.

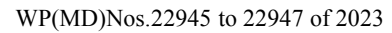


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2. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Tirunelveli Region,
Thiruvananthapuram Road,
Palayamkottai, Tirunelveli District.
3. The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Mettu Theru, Vadiveeswaram,
Nagercoil – 629 002,
Kanyakumari District.
4. The Fit Person,
Arulmigu Mutharamman Thirukovil,
Ramapuram Post, Sankaranputhooor,
Nagercoil, Kanyakumari District.
5. The Executive Officer,
Arulmigu Anchanamezhuthiya Kandan Sastha Temple,
Aasiramam,
Agastheeswaram Taluk,
Kanyakumari District.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorari calling for the records relating to the impugned notice issued by the fourth respondent dated 07.09.2023 and quash the same.



Balasubramanian

.. Petitioner

1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
No.119, Uthamar Gandhi Salai,
Chennai – 600 034.

2. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Tirunelveli Region,
Thiruvananthapuram Road,
Palayamkottai, Tirunelveli District.

3. The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Mettu Theru, Vadiveeswaram,
Nagercoil – 629 002,
Kanyakumari District.

4.The Fit Person,
Arulmigu Mutharamman Thirukovil,
Ramapuram Post, Sankaranputhoor,
Nagercoil, Kanyakumari District.

5.The Executive Officer,
Arulmigu Anchanamezhuthiya Kandan Sastha Temple,
Aasiramam,
Agastheeswaram Taluk,
Kanyakumari District. .. R

.. Respondents



WP(MD)Nos.22945 to 22947 of 2023

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorari calling for the records relating to the impugned notice issued by the fourth respondent dated 24.08.2023 and quash the same.

For Petitioners : Ms.J.Anandhavalli

For Respondents : Mr.P.Subburaj,
Special Government Pleader
for R.1 to R.5

[In all WPs]

Mr.S.C.Herold Singh
for R.6 in WP(MD)22945/2023

COMMON ORDER

The writ petitions in WP(MD)Nos.22945 to 22947 of 2023 are filed challenging the notice issued by the Fit Person of Arulmigu Mutharamman Temple calling upon the petitioners to show cause as to why they should not be evicted as per Section 78 of the Hindu Religious and Charitable Endowments Act [hereinafter referred to as 'the Act'].



2. These impugned notices have been issued pursuant to the order of this Court in WP(MD)No.1273 of 2023, wherein, this Court has passed the following order:-

“5. Having regard to the limited nature of relief sought, this Court without expressing any view on the merits of controversies involved in the matter, disposes the Writ Petition on the following terms:-

(i) the concerned authority shall immediately examine the representation dated 03.01.2023 made by the Petitioner and the representation dated 23.02.2023 made by the Fourth Respondent to initiate action for removal of encroachment of the properties of the aforesaid Temple under Section 78 of the Hindu Religious and Charitable Endowments Act, 1959;

(ii) if it is found that any other details or supporting documents is necessary, the deficiencies in that regard shall be informed in writing to the Petitioner requiring the same to be furnished within a time frame of not less than 15 days for the same;

(iii) in the event of not being satisfied with the requirements even thereafter, an enquiry shall be conducted affording full opportunity of personal hearing to the Petitioner and all other persons concerned to explain their position in that regard;

(iv) a reasoned order shall be passed dealing with each of



the contentions raised on merits and in accordance with law and the decision taken communicated by 30.09.2023 under written acknowledgment; and

(v) the report of such compliance shall be filed before the Registrar (Judicial) of this Court.”

3.Learned Counsel for the petitioners challenged the impugned notice on the ground that it was issued by the Executive Officer of Arulmigu Anchanamezhuthiya Kandan Sastha Temple and not by the Executive Officer of Arulmigu Mutharamman Temple, which is the subject Temple. By referring the provisions u/s.78 of the Act and the orders of this Court in WP(MD)No.1273 of 2023, the learned Counsel submitted that the direction was issued to the competent authority to initiate action u/s.78 of the Act. The Executive Officer of Arulmigu Anchanamezhuthiya Kandan Sastha Temple is not the competent authority as per Section 78 of the Act.

4.She further submitted that the impugned notice has been issued based on the orders of this Court in WP(MD)No.1273 of 2023, wherein, the petitioners herein, who are the representatives of the Temple, have not



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been arrayed as parties. She has also pointed out that the said writ petitioner, Sankar, in his representation as well as in the affidavit filed in support of that writ petition, has not made any specific averment as to the nature of the property and the encroachment by these petitioners, however, this Court without providing an opportunity to the petitioners herein has passed the order. One Palanivel, Administrator of the Temple, has already filed a writ appeal before the Division Bench of this Court in WA(MD)No.SR70266 of 2023 as against the order passed in WP(MD)No. 1273 of 2023. Therefore, she prayed for appropriate orders.

5.Learned Special Government Pleader, by referring the proceedings dated 15.02.2023, submitted that the fifth respondent / Executive Officer has been appointed as the Fit Person for Arulmigu Mutharamman Temple and therefore, he is competent to issue the notice. This notice is also issued only to conduct an enquiry based on the orders of this Court to ascertain as to whether the petitioners herein are encroachers or having any valid documents and based on the enquiry alone, the further report would be submitted before the Joint Commissioner for further course of action.



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6.This Court considered the rival submissions made on either side and perused the available materials.

7.The notices impugned in these writ petitions are only show cause notices, calling upon the petitioners to offer their explanations. The petitioners claim that the fifth respondent is not competent to issue the notices. It appears that the fifth respondent / Executive Officer of Arulmigu Anchanamezhuthiya Kandan Sastha Temple has been appointed as the Fit Person for Arulmigu Mutharamman Temple, by proceedings dated 15.02.2023. Therefore, he is competent to issue the impugned notice. Moreover, the impugned notice came to be issued as per the directions of this Court in WP(MD)No.1273 of 2023 and the same holds good as on date. Therefore, these writ petitions are disposed of with a direction to the petitioners to offer their explanations, if any, to the Fit Person. The Fit Person shall submit his report to the Assistant Commissioner, who, in turn, shall forward the report to the Joint Commissioner for necessary action as per Section 78 of the Act. The petitioners are also at liberty to work out



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their remedy based on the outcome of the writ appeal in

WA(MD)No.SR70266 of 2023.

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

Index : Yes / No
NCC : Yes / No
Internet : Yes
gk

30.10.2023

To

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Chennai – 600 034.
- 2.The Joint Commissioner,
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B.PUGALENDHI, J.

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30.10.2023