



WEB COPY



W.A.No.2810 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2024

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.A.No.2810 of 2022 and
C.M.P.No.22918 of 2022

S.Mayilvaganan

... Petitioner/Appellant

-VS-

1. The Commissioner,
Hindu Religious and Charitable Endowment Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam, Chennai-600 034.

2. The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
District Collectorate, Namakkal.

3. Sudha,
The Executive Officer,
Hindu Religious and Charitable Endowment Department,
Arulmigu Nakeshwarar Swamy Temple,
S.Nattamangalam, Namakkal District.

... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 09.11.2022 passed in W.P.No.19987 of 2022 and allow the present Writ Appeal.

For Appellant	:	Mr.Reegan Ujakar
		For Ms.T.Dharani
For R1 & R2	:	Mr.S.Ravichandran
		Addl. Govt. Pleader (HR&CE)
For R3	:	Mr.S.Sithirai Anandam



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J U D G M E N T

(By D.Krishnakumar,J.,)

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This Writ Appeal has been filed, challenging the order of the learned Single Judge dated 09.11.2022 passed in W.P.No.19987 of 2022, by which the Writ Petition filed by the Writ Petitioner/appellant herein, seeking to forbear the respondents from interfering with his peaceful possession was dismissed.

2. Learned Single Judge, while dismissing the Writ Petition, observed as follows in Paragraph No.4 of the order:

“4. It is beyond any pale of doubt that in terms of Section 34 of the Act, any lease for a term exceeding five years of any immovable property, belonging to, or given or endowed for the purpose of, any religious institution shall be null and void unless it is sanctioned by the Commissioner as being necessary or beneficial to the religious institution, and the Petitioners have not produced any document in satisfaction of that essential requirement. In such circumstances, the Respondents cannot be faulted for taking necessary action for the eviction of the Petitioners from that property following the prescribed procedure under the relevant statutory provisions. The prosecution of these Writ Petitions is a devious ploy adopted by the Petitioners as a camouflage to indefinitely protract the proceedings taken in that regard, which cannot be countenanced. It is needless to point out here that a mere contemplation or possibility that a right may be infringed, without any legitimate basis for that right, would not give rise to a cause of action. Consequently, the Petitioners are not entitled to any of the reliefs sought in these Writ Petitions in abuse of the legal process.”

3. The appellant filed three Writ Petitions, namely, W.P.Nos.2497, 15496



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and 19987 of 2022, seeking a) to restrain the Respondents from interfering with their peaceful possession of the property except by due process of law and to extend the lease for the period of three years in W.P. No. 2497 of 2022; b) to quash the notice dated 25.07.2022, calling upon him to vacate from the said property, failing which proceedings for eviction under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (hereinafter referred to as 'the Act' for short), would have to be taken against in that regard in W.P. No. 19987 of 2022 and c) to direct to prevent from laying pathway on the agricultural land in W.P. No. 15496 of 2022.

4. Though a common order has been passed by the learned Single Judge, the appellant has preferred the instant Writ Appeal only as against W.P.No.19987 of 2022, filed against issuance of notice dated 25.07.2022, calling upon him to vacate the property.

5. Learned Single Judge clearly stated that the appellant has no right to carry out agricultural activities without there being any valid lease agreement, as the Arulmigu Nakeshwarar Swamy Temple denied the existence of any agreement with the petitioner. Since the appellant was construed to be in illegal occupation, the Temple rightly issued notice to the appellant to vacate the premises and thereafter, the appellant



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can participate in the public auction, in case he specifically requires that property for lease. In our view, the order of the learned Single Judge is perfectly justified, warranting no interference by this Court, as the appellant has not produced any document to show that he is a lessee under the Temple.

6. In the result, this Writ Appeal is dismissed as devoid of merits. It is made clear that there is no impediment for the respondent to proceed in accordance with law under the relevant provisions of the Act. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.,]

[K.B., J]

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Index: Yes / No

Internet: Yes / No

Speaking Order/Non Speaking Order
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To:

1. The Commissioner,
Hindu Religious and Charitable Endowment Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam, Chennai-600 034.
2. The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
District Collectorate, Namakkal.



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