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W.P.No.34440 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2024

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THE HONOURABLE MR. JUSTICE S. SOUNTHAR

W.P No.34440 of 2024
and
WMP.No.37309 of 2024

Jeyaraj
S/o Muthumaya Thevar,
The President,
Nagai Mavatta Thirukovilkal Vadakaitharargal
Matrum Anaithy Vithaman Payanpattalargal Nala Sangam,
Reg.No.5/2022, Nagapattinam District.

...Petitioner

Vs.

1. The Commissioner,
Hindu Religious and Charitable Endowments,
Chennai.
2. The Joint Commissioner,
Hindu Religious and Charitable Endowments,
Nagapattinam.
3. The Assistant Commissioner,
Hindu Religious and Charitable Endowments,
Nagapattinam.
4. The Executive Officer,
Arulmigu Kayaragonaswami and
Neelayathachiyamman Temple,
Nagapattinam Taluk and District.

...Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the entire records pertaining to the order passed by the second respondent in Pa.Ma.No.289/2022/E2 dated 17.10.2024 and quash the same.

For Petitioner : Mr.T.Sivagnanasambandan

For Respondents : Mr.K.Karthikeyan
Government Advocate (HR & CE)

ORDER

The writ petition is filed challenging the eviction order passed by the second respondent under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowment Act 1955 treating the petitioner as an encroacher.

2. It is seen from the impugned order, in the eviction proceedings initiated against the petitioner under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowment Act, the petitioner, who was served with the notice in the eviction proceedings, failed to file any counter or lead any evidence before the Joint Commissioner. The notice received by petitioner in eviction proceedings is included in page 59 of typed set. Therefore, the second respondent, based on the documents filed by the fourth respondent temple, came to the conclusion that the petitioner was as an encroacher of the temple



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land and passed eviction order. Against the eviction order passed under

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Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowment Act, the petitioner has got an alternative remedy under Section 21 of HR & CE Act, before the Commissioner, HR & CE and in case, he disputes the title of the fourth respondent temple, he can filed a statutory suit before the Civil Court under Section 79 (2) of said Act.

3. In view of the availability of alternative remedy before the Commissioner of HR & CE and also statutory suit, this Court is not inclined to entertain the writ petition. Accordingly, writ petition is dismissed with liberty to the petitioner to assail the impugned order by availing alternative remedy. No costs. Consequently, connected miscellaneous petition is closed.

25.11.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
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Note: Issue order copy on 26.11.2024

S. SOUNTHAR, J.



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To

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2. The Joint Commissioner,
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3. The Assistant Commissioner,
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