



W.P.No.36429 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2024

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.36429 of 2024
and WMP.No.39295 of 2024

Anjalam

..... Petitioner

Vs.

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

2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Cuddalore District,
Cuddalore – 607 001.

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Cuddalore District,
Cuddalore – 607 001.

..... Respondents



W.P.No.36429 of 2024

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the 3rd respondent not to take any coercive steps for implementing the order in செ.மு.ந.க.1212/2022அ4 in M.P.No.181/2024, dated 28.10.2024 passed by the 2nd respondent until the certified copy of such order is served on the petitioner by the 2nd respondent based on petitioner's representation dated 25.11.2024.

For Petitioner : Mr.S.Sivagurunathan
For Respondents :Mr.K.Karthikeyan
Government Advocate (HR and CE)

ORDER

The writ petition is filed seeking issue a Writ of Mandamus directing the 3rd respondent not to take any coercive steps for implementing the order of eviction passed against the petitioner's husband in M.P.No.181/2024, dated 28.10.2024 till the certified copy of the same is served on the petitioner.

2. It is not in dispute that the second respondent initiated proceedings under Section 78 of HR and CE Act treating the petitioner's husband viz., Marudaraja as encroacher of the property situated in S.No.60/1, Thittakudi Taluk, Cuddalore District. Ultimately, the eviction order was passed against the petitioner's husband on 28.10.2024.



W.P.No.36429 of 2024

3. It is the case of the petitioner that the copy of the order was not served on her, in the mean time, the respondents are attempting to enforce the order. Hence, the petitioner has come before this Court.

4. When the matter is taken up for hearing, Mr.K.Karthikeyan, learned Government Advocate (HR and CE) takes notice for the respondents and on instructions submits that the copy of the order was sent to the petitioner's husband by registered post and the same was returned with an endorsement "addressee left India". Thereafter, the copy of the order of was served on the father of the petitioner's husband Marudaraja.

5. The learned Government Advocate has also produced the acknowledgment signed by said Marudaraja's father Krishnamoorthy. Since the copy is already served on the adult member of the petitioner's family, in view of the absence of petitioner's husband in India, the petitioner is not entitled to make a complaint as if, the copy of the order was not served on her. In any event eviction proceedings were initiated against petitioner's husband treating him as an encroacher. The petitioner is not entitled to



W.P.No.36429 of 2024

complaint order was not served on her. If at all it is only petitioner's husband, who was arrayed as respondent in eviction proceedings is entitled to complain about non-service. However, respondents produced acknowledgment for service order an adult member of petitioner's family, namely father of petitioner's husband in view of petitioner's absence in India. Therefore, I do find any merit in this writ petition and accordingly, the same is dismissed. It is open to the petitioner to challenge the eviction order in the manner known to law either before the Commissioner under Section 21 of HR and CE Act or before the Civil Court under Section 79(2) of HR and CE Act.

6. With these observation, the writ petition stands dismissed.

No costs. Consequently, connected miscellaneous petition is closed.

29.11.2024

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
ub



W.P.No.36429 of 2024

To

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

2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Cuddalore District,
Cuddalore – 607 001.

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Cuddalore District,
Cuddalore – 607 001.



WEB COPY



W.P.No.36429 of 2024

S.SOUNTHAR, J.

ub

W.P.No.36429 of 2024

29.11.2024