



WP(MD)No.4002 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **09.09.2024**

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THE HONOURABLE **MR.JUSTICE MOHAMMED SHAFFIQ**

W.P.(MD)No.4002 of 2024

and

W.M.P.(MD)No.3887 & 3888 of 2024

Soundarapandi

... Petitioner

/Vs./

The Executive Officer,
Arulmigu Meenakshi Sundareshwarar Temple,
Thimmarasanayakanur,
Andipatti,
Theni District.

... Respondent

PRAYER:- Petition - filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the respondent in Na.Ka.No.72/2024 dated 12.02.2024 and quash the same and consequently restraining the respondent from interfering with the peaceful possession and enjoyment of tin shed shop situated in S.No.733/A1 to an extent of 4 cents situated at Railway Feeder Road, Andipatti, Theni District.

For Petitioner : Mr.C.Jeganathan

For Respondent : Mr.V.Chandrasekar



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ORDER

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This writ petition has been filed challenging the impugned proceedings passed by the respondent in Na.Ka.No.72/2024 dated 12.02.2024, whereby, the petitioner was informed to vacate and hand over vacant possession of the subject property, failing which, the petitioner would be evicted with the assistance of police officials, on the premise that the petitioner has encroached upon the property belonging to the respondent Temple.

2. Heard Mr.C.Jeganathan, learned counsel appearing for the petitioner and Mr.V.Chandrasekar, learned counsel appearing for the respondent.

3. It is submitted by the learned counsel for the petitioner that the impugned proceedings dated 12.02.2024 by the Executive Officer is wholly without jurisdiction inasmuch as the power to determine encroachment and to evict the encroachers is vested only with the Joint Commissioner. Further, Sections 78 and 79 of the Hindu Religious and Charitable Endowments Act prescribes the procedure and the method/manner which ought to be followed to determine encroachment and to evict such encroachers, which has not been adhered to and thus, the entire proceedings would be vitiated.



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4. The learned standing counsel appearing for the respondent would submit that auction was conducted on 19.01.2024 in respect of a portion of the temple property, including the property which was alleged to be illegally occupied by the petitioner and the auction is also completed. In view of the encroachment, the subject temple is facing threat of committing breach of auction conditions, inasmuch as it is required to hand over vacant possession including the land/property under encroachment. That it was only under such circumstances, the respondent has issued the impugned proceedings.

5. Heard the submissions made on both sides and perused the materials on record.

6. This Court finds merit in the submission of the learned counsel appearing for the petitioner, that the Executive Officer, does not have any jurisdiction to invoke the provisions of Sections 78 and 79 of the Hindu Religious and Charitable Endowments Act, inasmuch as the power to determine encroachment of property belonging to a religious institution vests with the Joint Commissioner in terms of Sections 78 and 79 of the Hindu Religious and Charitable Endowments Act, 1959. The impugned proceedings by the Executive Officer is clearly lacking jurisdiction and thus liable to be set aside. It is open to the respondent authorities to proceed in accordance with law.



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7. In view thereof, the impugned order dated 12.02.2024 is set aside and this writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

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NCC :Yes/No
Index :Yes/No
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MOHAMMED SHAFFIQ, J.

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Order made in
W.P.(MD)No.4002 of 2024

Dated:
09.09.2024