



W.P.(MD) No.14524 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.07.2024

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THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.14524 of 2024

and

W.M.P.(MD) No.12751 of 2024

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... Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable
Endowment Department,
Chennai.

2.The Joint Commissioner,
H.R. & C.E. Department,
Tirunelveli.

3.The Assistant Commissioner,
H.R. & C.E. Department,
Tirunelveli.

4.The Executive Officer,
Medaithalavaikattalai,
Meenakshipuram,
Tirunelveli Junction,
Tirunelveli Taluk,
Tirunelveli District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for
issuance of a Writ of Certiorari calling for the records of the impugned



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Eviction Notice dated 20.06.2024 issued by the fourth respondent against the petitioner and quash the same as illegal, arbitrary and in violation of Section 21 of the H.R. & C.E. Act.

For Petitioner : Mr.V.Angusamy

For Respondents : Mr.P.Subbaraj
Additional Government Pleader

ORDER

Mr.P.Subbaraj, learned Additional Government Pleader, takes notice for the respondents.

2. With the consent of the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents, this Writ Petition is taken up for final disposal, at the time of admission, after dispensing with the counter affidavit of the respondents.

3. This Writ Petition has been filed for issuance of a Writ of Certiorari calling for the records of the impugned Eviction Notice dated 20.06.2024 issued by the fourth respondent and quash the same as illegal, arbitrary and in violation of Section 21 of the H.R. & C.E. Act, 1959.



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4. The petitioner claims to be a tenant to the fourth respondent temple since 1990. According to the petitioner, the petitioner had entered into a Lease Deed as early as 05.05.1990 which was sought to be cancelled by issuing a notice for cancellation of Lease Deed on 28.06.2022.

5. Subsequent to the aforesaid notice dated 28.06.2022 issued by the fourth respondent, the third and fourth respondents filed M.P.No.154 of 2023 before the second respondent Joint Commissioner to evict the petitioner from the said land.

6. Meanwhile, one P.Muthunayagam filed W.P.(MD) No.23501 of 2016 before this Court for issuance of a Writ of Mandamus to direct the first and second respondents therein, i.e., the District Collector, Tirunelveli and the Tahsildar, Radhapuram Taluk, to prevent/stop illegal construction put up by the fourth respondent therein/the petitioner herein in the subject land and to further direct the second respondent Tahsildar to dispose of the said P.Muthunayagam's Petition in T.R.No.2/97 and representation dated 04.11.2016. The said Writ Petition came to be disposed of on 26.06.2023 with the following observations:-



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“4.Recording the aforesaid submission, this writ petition stands disposed of with a direction to the Joint Commissioner, Tirunelveli, to ensure that the proceedings initiated as against the fourth respondent under Section 78 of the Act is concluded, in accordance with law, as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.”

7. Pursuant to the aforesaid order dated 26.06.2023 in W.P.(MD) No.23501 of 2016 and pursuant to the notice dated 28.06.2022, M.P.No. 154 of 2023 came to be allowed by the second respondent in favour of the third and fourth respondents on 08.04.2024. Against the same, the petitioner has preferred a Revision Petition before the first respondent Commissioner under Section 21 of the H.R. & C.E. Act, 1959.

8. The case of the petitioner is that the petitioner was not in arrears of rent and has been wrongly treated as an encroacher for the purpose of invoking Section 78 of the H.R. & C.E. Act, 1959.

9. Per contra, the learned Additional Government Pleader for the respondents would submit that the petitioner was not only in arrears of



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rent but also unilaterally altered the usage of the agricultural land by putting up a construction. It is further submitted that the petitioner sold a part of the land and rented out the remaining portion to the third parties and therefore, the action of the petitioner warranted a proceedings under Section 78 of the H.R. & C.E. Act, 1959. It is therefore submitted that there is no merits in the present Writ Petition.

10. The learned counsel for the petitioner, by way of rejoinder, would submit that Revision Petition filed by the petitioner before the first respondent in R.P.No.164/2024 D2 was listed on 01.07.2024 and is now adjourned to 09.09.2024. Pending further orders of the first respondent Commissioner in R.P.No.164/2024 D2 filed by the petitioner, the impugned Notice ought not to have been issued by the fourth respondent to evict the petitioner.

11. The learned Additional Government Pleader for the respondents, on the other hand, would submit that the proceedings are strictly in accordance with the order dated 08.04.2024 passed by the second respondent Joint Commissioner in M.P.No.154 of 2023.



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12. Having considered the submissions made by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents, I am of the view that this Writ Petition can be disposed of by directing the second, third and fourth respondents to keep the proceedings pursuant to the impugned notice in abeyance pending further orders to be passed by the first respondent Commissioner in R.P.No.164/2024 D2 filed by the petitioner under Section 21 of the H.R. & C.E. Act, 1959 or for a period of 30 days from the date of receipt of a copy of this order, whichever is earlier.

13. It is open for the petitioner to workout her remedy by securing an interim order from the first respondent Commissioner to stay the operation of the order of the second respondent Joint Commissioner dated 08.04.2024 in M.P.No.154 of 2023.

14. The first respondent Commissioner is directed to dispose of R.P.No.164/2024 D2 filed by the petitioner under Section 21 of the H.R. & C.E. Act, 1959, as expeditiously as possible. The first respondent Commissioner is at liberty to advance the hearing by issuing notice to the petitioner.



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WEB COPY 15. In the result, this Writ Petition stands disposed of with the above observations. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order

JEN

Copy To:

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C.SARAVANAN, J.

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