



W.A(MD)No.1493 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.09.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.A(MD)No.1493 of 2024
and
C.M.P.(MD)No.11612 of 2024**

—
Kandasamy

... Appellant / Petitioner

-vs-

1.The Commissioner,
Hindu Religious and Charitable
Endowment Department,
Chennai-34.

2.The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
Mayiladuthurai,
Mayiladuthurai District.

3.The Assistant Commissioner,
Hindu Religious and Charitable
Endowment Department,
Kumbakonam,
Thanjavur District.

4.The Assistant Commissioner /
Executive Officer,
Sri Naganatha Swamy Temple,
Thirunagaeshwaram,
Thanjavur District.

... Respondents / Respondents



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PRAYER: Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 12.03.2024 passed in W.P.(MD)No.18523 of 2023.

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For Appellant : Mr.G.Gomathi Sankar
For R-1 to R-3 : Mr.S.P.Maharajan,
Special Government Pleader
For R-4 : Mr.V.Chandra Sekar

JUDGMENT

[Judgment of the Court was made by R.SUBRAMANIAN, J.]

Challenge before the Writ Court was a notice under Section 9 of the Hindu Religious and Charitable Endowments Act, 1959, which is essentially consequential upon an order of eviction passed under Section 78. It is not disputed that an eviction order was passed under Section 78 of the said Act against the petitioner and the same has not been questioned. The learned counsel for the petitioner would contend that the property in its possession is in a different survey Number and the eviction order has been passed in respect of different survey numbers. Those questions cannot be decided under Article 226 of the Constitution of India, in the absence of any evidence. It was open to the petitioner to raise such a contention in the 78 proceedings and if the contentions have been so raised, they would have been dealt with by the authority. Even if those



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contentions have not been dealt with by the authority, the remedy for the petitioner lies before the revisional authority, namely, the Commissioner, Hindu Religious and Charitable Endowments Department, under Section 21 of the Act.

2. Hence, we see no merit in the writ appeal. The appeal is therefore dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

[R.S.M., J.]

[L.V.G., J.]

05.09.2024

NCC :Yes/No

Index :Yes/No

Internet: Yes

Sml

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