



W.P.(MD) No.15347 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

**W.P.(MD) No.15347 of 2024
and
W.M.P.(MD) Nos.13445 and 13446 of 2024**

S.Nagarajan

... Petitioner

/vs./

- 1.The District Collector,
Collector Office,
Virudhunagar,
Virudhunagar District.
- 2.The Commissioner,
Hindu Religious and Charities Endowment Department,
119, Uthamar Gandhi Rd,
Thousand Lights West,
Nungambakkam, Chennai 600 034.
- 3.The Joint Commissioner,
Hindu Religious and Charities Endowment Department,
Madurai, Madurai District.
- 4.The Assistant Commissioner,
Hindu Religious and Charities Endowment Department,
Virudhunagar,
Virudhunagar District.



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5.The Executive Officer,
Arulmigu Vaithiyanatha Swami Thirukovil,
Madavur Valagam,
Srivilliputhur, Srivilliputhur Taluk,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to the Impugned order Na.Ka.No.4827/2023-6/A2 dated 19.06.2024 passed by the 4th Respondent.

For Petitioner : Mr.B.Rajesh Saravanan

For R1 to R4 : Mr.P.Subbaraj
Special Government Pleader

For R5 : Mr.P.Mahendran
Standing Counsel

ORDER

Heard Mr.B.Rajesh Saravanan, learned counsel for the petitioner, Mr.P.Subbaraj, learned Special Government Pleader for the respondents 1 to 4 and Mr.P.Mahendran, learned Standing Counsel for the fifth respondent.

2.In this writ petition, the petitioner has challenged the impugned order of the fourth respondent dated 19.06.2024 bearing Ref. Na.Ka.No.4827/2023-6/A2.



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3.The petitioner appears to be a lessee of the agricultural land, measuring an extent of 0.37.50 hectares in S.No.106/10 at Padikkasuvaittanpatti Village, Srivilliputhur Taluk, Virudhunagar District. It appears that the petitioner has put up a construction of a temple on 656 sq.ft., of land out of 0.37.50 hectares that was leased to the petitioner.

4.Under these circumstances, a PIL was also filed before this Court in W.P. (MD) No.9367 of 2023, which came to be disposed of on 02.06.2023 with the following observations:

“We are not very happy with the manner in which the officer has dealt with the case of removal of encroachment. It is an admitted case where 95 Cents of land situate in a particular survey number was leased out to one Nagaraj, who attempted to construct a temple over the said land. Fortunately, by the grace of Arulmigu Vaithiyanatha Swamy, sense prevailed and the attempt to build a temple was scuttled due to the timely intervention of the police. But, that better sense appears to have been vanished now. The very fact that the officer claims that the members of the community are now seeking permission to perform kumbabishegam, though the lessee has abandoned the land and fled to Singapore leads us to believe that all is not well. Fortunately, the attempt to perform kumbabishegam by moving this Court also failed. The Executive Officer, in his affidavit, has, however, stated that he is awaiting completion of survey of about 100 Acres of land, which is yet to be completed. We find a sinister design to delay removal of encroachment. The Executive Officer need not wait for survey of all the lands belonging to all the temples all over the world to take



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action for removal of encroachment over 95 Cents of land, which has already been identified. We, therefore, direct the Executive Officer to launch proceedings immediately under Section 78 of the Hindu Religious and Charitable Endowments Act, 1959 and complete the proceedings in the manner known to law, within a period of six months from today and submit a report before this Court.

2.The writ petition is disposed of with the above directions. No costs.

3.Post this writ petition after six months for reporting compliance.”

5.Pursuant to the above, proceedings under Section 78 of the HR & CE Act, 1959, were initiated against the petitioner, which has culminated in the order of the third respondent/the Joint Commissioner on 08.04.2024, which was received by the petitioner on 04.05.2024. The petitioner has now filed a Revision before the Appellate Commissioner, namely the second respondent under Section 21 of the HR & CE Act, 1959.

6.The learned Special Government Pleader for the respondents 1 to 4 would submit that the petitioner has slept over his rights and has filed Revision long after the order was passed on 08.04.2024.



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7. That apart, it is submitted that parallel contempt proceeding is also pending before the Hon'ble Division Bench for reporting compliance regarding the steps taken. Hence, he submits that the respondents are required to implement the orders of the Hon'ble Division Bench.

8. It is further submitted that the petitioner has sub-leased the property to one Sanjeeveenathan and that the petitioner has migrated to Singapore and is not a resident of India. It is further submitted that the land is not used for agricultural purpose and therefore, the writ petition is liable to be dismissed.

9. Having considered the submissions made by the learned counsel for the petitioner, learned Special Government Pleader for the respondents 1 to 4 and the learned Standing Counsel for the fifth respondent, I am of the view that although the proceedings that have been initiated against the petitioner under Section 78 of the HR & CE Act, 1959 are in order, they are to await further orders of the Commissioner in the Revision filed by the petitioner under Section 21 of the HR & CE Act, 1959 before the second respondent/Commissioner.



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10. Under these circumstances, the impugned order and the impugned communication are to be kept in abeyance for a period of 2 months. The second respondent/the Commissioner shall dispose of the petitioner's Revision filed on 01.06.2024 against the order of the third respondent dated 08.04.2024 within a period of two months from the date of receipt of a copy of this order. All further proceedings shall be subject to the outcome of the Revision filed by the petitioner before the second respondent.

11. The Writ Petition stands disposed of, accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes / No
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C.SARAVANAN, J.

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