



W.P.(MD)Nos.18521 to 18523 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)Nos.18521 to 18523 of 2023

and

W.M.P.(MD)Nos.15358, 15360 and 15359 of 2023

W.P.(MD)No.18521 of 2023

S.Murugan

... Petitioner

versus

1. The Commissioner,
Hindu Religious and Charitable
Endowments Department,
Chennai – 34.
2. The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
Mayiladuthurai,
Mayiladuthurai District.
3. The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Department,
Kumbakonam,
Thanjavur District.



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

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the 3rd respondent in his proceedings Na.Ka.No.3335/2015-4/A7 dated 21.07.2023 and quash the same as illegal and arbitrary and consequently, direct the 2nd to 4th respondents herein do not interfere with the petitioner's peaceful possession and enjoyment of the property in Survey No.159/6 to an extent of 2100 square feet situated in Sannapuram Village, Old Door No.53 and New Door No.36 E, Thoppu Street, Thirunageshwaram, Kumbakonam Taluk, Thanjavur District.

For Petitioner : Mr.G.Gomathi Sankar
For R1 to R3 : Mr.P.Subba Raj,
Special Government Pleader
For R4 : Mr.V.Chandrasekar

W.P.(MD)No.18522 of 2023

Ravi

... Petitioner

versus



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1. The Commissioner,
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2. The Joint Commissioner,
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Endowments Department,
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Mayiladuthurai District.
3. The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Department,
Kumbakonam,
Thanjavur District.
4. The Assistant Commissioner/
Executive Officer,
Sri Naganatha Swamy Temple,
Thirunageshwaran,
Thanjavur District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the 4th respondent in his proceedings Na.Ka.No.1345/2023-5/A7 dated 21.07.2023 and quash the same as illegal and arbitrary and consequently, direct the 2nd to 4th respondents herein do not interfere with the petitioner's peaceful possession and enjoyment of the house property in old Door No.13 and



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new Door No.2 situated in Survey No.195/1 to an extent of 650 sq. ft.
Sannapuram Village, Thirunageswaran, Kumbakonam Taluk,
Thanjavur District.

For Petitioner : Mr.G.Gomathi Sankar

For R1 to R3 : Mr.P.Subba Raj,
Special Government Pleader

For R4 : Mr.V.Chandrasekar

W.P.(MD)No.18523 of 2023

Kandasamy

... Petitioner

versus

1. The Commissioner,
Hindu Religious and Charitable
Endowments Department,
Chennai – 34.

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

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



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4. The Assistant Commissioner/
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Sri Naganatha Swamy Temple,
Thirunageshwaran,
Thanjavur District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the 3rd respondent in his proceedings Na.Ka.No.3335/2015-3/A7 dated 21.07.2023 and quash the same as illegal and arbitrary and consequently, direct the 2nd to 4th respondents herein do not interfere with the petitioner's peaceful possession and enjoyment of the property in Survey No.159/6 to an extent of 4364 sq. ft. situated at Sannapuram Village, Old Door No.37 and New Door No.52, Thoppu Street, Thirunageshwaram, Kumbakonam Taluk, Thanjavur District.

For Petitioner : Mr.G.Gomathi Sankar
For R1 to R3 : Mr.P.Subba Raj,
Special Government Pleader
For R4 : Mr.V.Chandrasekar

COMMON ORDER

These writ petitions have been filed as against the notice dated 21.07.2023 issued under Section 79 of the HR&CE Act.



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2. The learned counsel appearing for the petitioners, by relying on the documents of the year 1979 and 1990, submits that the petitioners are owners of the lands and they have purchased the lands through registered documents. However, the respondents, without providing an opportunity of hearing to the petitioners, passed an order under Section 78 of HR&CE Act and also proceeded under Section 79 of HR&CE Act.

3. Mr.V.Chandrasekar, learned counsel appearing for the 4th respondent/temple submits that the impugned proceedings is only a notice. This has been issued for enabling the petitioners to vacate the premises and to avoid any coercive action at the time of eviction. The Department has already initiated proceedings as against the petitioners under Section 78 of the HR&CE Act and has passed an order of eviction. The petitioners have not challenged the order passed under Section 78 of the HR&CE Act. Therefore, the petitioners cannot



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maintain these writ petitions as against the notice issued under Section 79 of the HR&CE Act. This is a consequential action taken pursuant to the orders passed under Section 78 of HR&CE Act.

4. The learned counsel appearing for the 4th respondent further submits that even according to the documents referred by the petitioners, the subject lands belong to Sri Naganatha Swamy Temple, Thirunageshwaran. The petitioners, without having any authority, have constructed a house and are residing in that houses, without paying any rent to the Temple. Therefore, the Department has initiated action under Section 78 of the HR&CE Act, based on the report of the Archeological Department that these constructions are made abutting the temple marring the artistic appearance of the temple.

5. This Court considered the rival submissions made and perused the materials placed on record.



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6. The impugned proceedings is only a notice issued under Section 79 of the HR&CE Act. Since the Department has already passed an order under Section 78 of HR&CE Act, they have proceeded under Section 79 of the HR&CE Act. Further, the documents relied on by the petitioners also disclose that the subject properties belong to Sri Naganatha Swamy Temple, Thirunageshwaran. Therefore, this Court is not inclined to entertain these writ petitions.

7. Accordingly, these writ petitions are dismissed. The petitioners are directed to vacate the premises within a period of three months from the date of receipt of a copy of this order. This time limit is also provided to the petitioners to find out an alternative place to shift their houses. If the petitioners fail to vacate their houses within the time stipulated by this Court, the respondents shall proceed with after issuing due notice to the petitioners.



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8. At this juncture, the learned counsel appearing for the petitioners submits that as against the order passed under Section 78 of the HR&CE Act, the petitioner in W.P.(MD)No.18522 of 2023 has filed a revision petition and the same is pending before the the first respondent/the Commissioner of HR&CE Department, Chennai. The same is disputed by the learned counsel appearing for the 4th respondent stating that though the petitioner in W.P.(MD)No.18522 of 2023 has filed a revision petition before the Commissioner, the same has not been numbered, as on date, no revision is pending before the first respondent. If the revision petition filed by the petitioner in W.P. (MD)No.18522 of 2023 is pending before the Commissioner, he can work out his remedy before the Commissioner, HR&CE Department, Chennai. Consequently, connected miscellaneous petitions are closed.

12.03.2024

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.



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B.PUGALENDHI, J.

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