



W.P(MD)No.20873 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.09.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P(MD)No.20873 of 2024

and

W.M.P(MD)No.17683 of 2024

S.Mariyappan

... Petitioner

Vs.

- 1.The Commissioner,
Hindu Religious & Charitable Endowments
Admin Department,
Uthmar Gandhi Salai,
Nungambakkam, Chennai-600 034.
- 2.The Joint Commissioner,
Hindu Religious & Charitable Endowments Department,
Mayiladuthurai Division, Samantharkulam,
Siththarkadu,
Mayiladuthurai Taluk and District-609 003.
- 3.The Assistant Commissioner,
Hindu Religious & Charitable Endowments Department,
Kumbakonam Division,
No.1, Aayikualam Road,
Kumbakonam-612 001.
- 4.Board of Trutees,
Arulmigu Jaganatha Pillayar Temple,
Nageshwaran Thirumanjana Street,
Kumbakonam Town and District.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, forbearing the respondents 2 and 3 from taking any coercive action to dispossess the petitioner from the property measuring to an extent of 357 sq. ft. comprised in T.S.No.501, Thokampalaya Street, Kumbakonam Taluk and Town, Thanjavur District, till the disposal of the revision petition in R.P.No.444 of 2023 pending with the first respondent filed against order, dated 18.07.2023 of the second respondent made in M.P.No.293 of 2019 and pass such other order as this Court.

For Petitioner : Mr.S.Madhavan

For R-1 to R-3 : Mr.K.S.Selvaganesan
Additional Government Pleader

ORDER

The present writ petition is filed challenging the notice, dated 16.08.2024, whereby, the petitioner was directed to vacate and hand over vacant possession of the property and which he is presently running a restaurant.

2. It is submitted that earlier when proceedings were sought to be initiated under Sections 78 and 79 of the Hindu Religious and Charitable Endowments Act, treating the petitioner as encroacher of the Temple property,



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the petitioner has challenged the same before the Joint Commissioner / first respondent, who vide its order, dated 18.09.2023 found that the land belongs to Jegannatha Pillayar Temple and the petitioner was an encroacher in terms of Section 78 of the HR and CE Act and had also directed that action be taken invoking Section 79 of the HR and CE Act by the authorities to remove the said encroachment.

3. Aggrieved by the same, the petitioner preferred a revision petition in R.P.No.444 of 2023 before the Commissioner, HR and CE Department, Chennai. The above revision petition is stated to be pending. The writ petitioner had also prayed for an interim injunction restraining the respondents or his men, agents, subordinates, staffs from causing any interference over the petitioner's peaceful possession and occupation over an extent of 357 sq. ft. situate at Thokampalaya Street, Kumbakonam Taluk and Town, Thanjavur District comprised in T.S.No.501. However, the above interim application is yet to be heard by the Commissioner, who is the first respondent herein. In the meanwhile, the impugned notice, dated 16.08.2024 has been issued directing the petitioner to vacate and hand over vacant possession on or before 04.09.2024.



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4. It is submitted that the impugned proceedings, whereby, the petitioner is directed to hand over the vacant possession even before the disposal of interim application, which has been filed before the Commissioner, is pre-mature and unsustainable.

5. It is submitted by the learned Additional Government Pleader appearing for the official respondent that the impugned proceedings shall be kept in abeyance until the interim application is disposed of.

6. Recording the same, the writ petition stands closed. The first respondent shall take up the interim application as expeditiously as possible and dispose of the same. In the meanwhile, the impugned proceeding, dated 16.08.2024 shall be kept in abeyance. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

02.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR



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Note: Issue order copy on 03.09.2024.

To

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Hindu Religious & Charitable Endowments
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MOHAMMED SHAFFIQ, J.

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