



W.P.(MD)No.24793 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.10.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)No.24793 of 2024

and

W.M.P(MD)No.21095 of 2024

S.Subramanian @ Subbu Asari

... Petitioner

Vs.

- 1.The District Collector,
O/o. The District Collector,
Sivagangai District,
Sivagangai.
- 2.The Tahsildar,
O/o. The Tahsildar,
Kalaiyarkovil Taluk,
Sivagangai District.
- 3.The Joint Commissioner,
O/o.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Sivagangai.
- 4.The Assistant Commissioner,
O/o.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Sivagangai.



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5.The Manager,
Sivagangai Samasthanam Devasthanam,
Arulmigu Vaal Mel Nadantha Amman Temple,
Kalaiyarkovil,
Sivagangai District.

6.The President,
Kalaiyarkovil Village Panchayat,
Kalaiyarkovil Taluk,
Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the fourth respondent vide Na.Ka.No. 3705/2023/A4, dated 24.09.2024 and quash the same and consequently forbearing the respondents from evicting from the dwelling house constructed in Survey No.185/1, Kalaiyarkovil Village Panchayat, Kalaiyarkovil Taluk, Sivagangai District.

For Petitioner : Mr.D.Shanmugaraja Sethupathi

For R1 to R4 : Mr.K.S.Selvaganesan
Additional Government Pleader

For R5 : Mr.S.Madhavan

ORDER

The writ petition is filed challenging the order passed by the fourth respondent, dated 24.09.2024 in terms of Section 78 of the Hindu Religious and Charitable Endowments Act.



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2. The learned counsel for the petitioner would submit that notice under Section 78 (2) of the Hindu Religious and Charitable Endowments Act was not served on the petitioner and thus, the entire proceedings initiated under Section 78 of the Hindu Religious and Charitable Endowments Act is bad and illegal.

3. The question as to whether there was a valid service or not is essentially a question of fact, more so, the same is disputed herein. It is trite law that this Court under Article 226 of the Constitution of India would not normally examine disputed question of facts.

4. At this juncture, the learned counsel for the petitioner would submit that the petitioner may be granted liberty to file an appeal within a stipulated time.

5. The Additional Government Pleader for the respondents 1 to 4 would submit that the petitioner may be permitted to file an appeal within a period of two weeks from the date of receipt of copy of this order. If such appeal is filed, the same would be entertained without reference to limitation subject to



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compliance with all other conditions relating to appeal, including pre-deposit, if

any and orders would be passed in accordance with law.

6. In view thereof, the petitioner is granted liberty to file an appeal within a period of two weeks from the date of receipt of copy of this order. If any such appeal is filed, the same shall be entertained without reference to the limitation subject to compliance of conditions including pre-deposit, if any and orders shall be passed in accordance with law after affording a reasonable opportunity of hearing to the petitioner and any other interested parties/stake holders. It is open to the petitioner to file an application for stay. Until the disposal of the application for interim stay, no coercive proceedings would be taken.

7. Accordingly, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

21.10.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
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MOHAMMED SHAFFIQ, J.

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