



W.P(MD)Nos.26258 to 26260 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)Nos.26258 to 26260 of 2023 and
WMP(MD) Nos.22605,22607,22608,23849,23851,23853 of 2023

W.P(MD)No.26258 of 2023:-

VR.Palaniyappan

... Petitioner in
WP(MD) No.26258/2023

S.Madhavan

... Petitioner in
WP(MD) No.26259/2023

K.Kumar

... Petitioner in
WP(MD) No.26260/2023

Vs

1.The Commissioner,
Hindu Religious and Charitable Endowment Board,
Chennai.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowment Board,
Thanjavur.

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Board,
Pudukkottai.



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4.The Executive Officer,
Arulmigu Karpagavinayaga Temple,
Konappattu, Thirumayam Taluk,
Pudukkottai.

5.The Konapet Panchayat,
Through its President,
Konapet,
Thirumayam Taluk,
Pudukkottai District.

6.Karpaga Vinayagar Charitable Trust,
Through its Trustee,
Konapattu,
Thirumayam Taluk,
Pudukkottai District.

Respondents
in all WPs

COMMON PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned proceedings in MP.No. 62/2023/C2, MP.No. 61/2023/C2 and MP.No. 63/2023/C2 dated 27.09.2023 passed by the 2nd respondent and quash the same as illegal.

For Petitioner	: Mr.V.R.Shanmuganathan
For R1 to R4	: Mr.P.Subba Raj Special Government Pleader
For R5	: Mr.R.Suresh Kumar
For R6	: Mr.R.M.Arun Swaminathan

(In all WPs)



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COMMON ORDER

The case of the petitioners is that the petitioners along with few others are having shops in S.No.433, Konapattu Village, Thirumayam Taluk, Pudukkottai District. According to the petitioners, "A" Register reveals that the subject land is a Government Poramboke. However, the respondents have issued a notice under Section 78 of the HR & CE Act,1959, treating them as encroachers of the temple land. Challenging the same, the petitioners are before this Court.

2.The learned counsel appearing for the petitioners by referring "A" register submits that this property in S.No.433 of Konapatti Village is a Government Poramboke land. Therefore, the temple is not having any authority to issue a notice under Section 78 of the HR & CE Act,1959. He further submits that the petitioners are paying rent regularly to the Department and therefore they cannot be



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treated as encroachers. Proceedings was initiated without any report from the Executive officer as contemplated under Section 78(1) of the Act.

3.The learned counsel appearing for the sixth respondent temple submits that the subject land belongs to the temple and even before independence, a suit was conducted, wherein, a decree has been granted in favour of the temple. Before initiating proceedings under section 78 of the HR & CE Act, notice was issued to the writ petitioners to ascertain under what authority the petitioners are in occupation of the shops. The petitioners are not having any lease agreement and they are illegally occupying the temple land. Since the petitioners did not reply, they are intending to proceed under Section 78 of the HR & CE Act by forwarding a report to the Joint Commissioner. He further submits that in view of these writ petitions, they did not proceed further.



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

5.The petitioners are in occupation of the land in S.No. 433, Konapattu Village, Thirumayam Taluk, Pudukkottai District for several years. According to the petitioners, the subject land is a Government Poramboke. The sixth respondent temple authorities claim that they have obtained a decree in favour of temple long ago and the petitioners and few others are the encroachers of the temple land. Therefore, they have issued notice to initiate proceedings under Section 78 of the HR & CE Act,1959. If the petitioners are having any grievance, they can very well raise all the grounds which are raised in these writ petitions before the Joint Commissioner.

6.In view of the above, all these writ petitions are disposed of with a liberty to the petitioners to respond the notice of the sixth respondent with a reply along with their documents, if any.



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If the sixth respondent is not satisfied with the same, the sixth respondent shall forward his request to the Joint Commissioner under Section 78 of the HR & CE Act. The Joint Commissioner shall conduct an enquiry and take a decision after providing reasonable opportunity to the petitioners. Till such time, the petitioners need not be disturbed. No costs. Consequently, connected Miscellaneous petitions are closed.

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NCC:Yes/No
Index:Yes/No
Internet:Yes
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Common Order made in
W.P(MD)Nos.26258 to 26260 of 2023 and
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