



WMP(MD). No.23856 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Civil Appellate Jurisdiction

Tuesday, the Twenty Second day of October Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice C.V.KARTHIKEYAN
AND
The Hon`ble Mr.Justice J.SATHYA NARAYANA PRASAD

WMP(MD). No.23856 of 2023
IN
WP(MD)NO.22574 OF 2022

Tiruchendur Santhana Mariamman
Kovil Residents and Shop Owners Welfare
Association Represented by K.
Chandrasekaran S/o.S.Kurusamy R/o.219
Santhanamariamman Koil Street

... Petitioner/3rd parties

Vs

- 1 Markandan.P
- 2 The Commissioner
Hindu Religious and Charitable Endowments
Department, Uthamar Gandhi Road,
Nungambakkam, Chennai- 600 034.
- 3 The Joint Commissioner
Hindu Religious and Charitable Endowments
Department, 14/1, Thiruvandran Road,
Palayamkottai, Tirunelveli - 627 002.



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- 4 The Assistant Commissioner
Hindu Religious and Charitable Endowments
Department, Alagesapuram Near American
Hospital, Roundtana, Thoothukudi- 628 002.
- 5 The Joint Commissioner Cum Executive Officer,
Arulmigu Subramania Swamy Temple,
TB Road, Tiruchendur,
Thoothukudi- 628 215.
- 6 Srilasri 27th Guru Maha Sannithanam,
Dharmaapuram Adheenam Dharmapuram,
Mayiladuthurai- 609 311.
- 7 The District Collector,
National Highway,7A, PSP Nagar
Korampallam, Thoothukudi-628101.
- 8 Municipal Commissioner,
44, Palai Road, Tiruchendur,
Thoothukudi- 628215.
- 9 The Joint Commissioner,
HR and CE Deartment,Alageshapuram,
Near Americal Hospital Roundtana,
Tuticorin- 628002.
- 10 The Sub Registrar,
TB Road, Thiruchendur,
Tuticorin-628215.

(R6 to R9 are Impleaded Vide Court Order
Dated 11.10.2022 in Wmp(MD). 17493/2022
in Wp(MD).22574/2022

... Respondent/Respondent/Complainant



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Prayer in WMP(MD). No.23856 of 2023:-

This Writ Miscellaneous Petition is filed under Article 226 of Constitution of India, to clarify the Impugned Order dated 07.12.2022 in W.P.(MD).No.22574 of 2022 to the effect that the directions issued by this Honourable High Court were not attracted to the petitioners and their holdings and pass such other or further orders as this Honble Court may deem fit and proper in the circumstances of this case and thus render justice.

Prayer in WP No.22574 of 2022:-

This Writ Petition is filed under Article 226 of Constitution of India to issue a Writ of Mandamus, direct the Respondents 1- 4 to consider the petitioner's representation dated 06.09.2022 consequently direct the Respondents 1-4 to retrieve and hand over the property belonging to the 5th respondent Dharamapuram Adheenam situated at Thiruchendur in Survey No. 222A/1, 222A/3, 222B/1, 222B/3 measuring a total extent of 3.5 acres which is presently under the encroachment of third parties as per procedure contemplated under Sec. 78 of the HR and CE Act and take other such necessary steps to secure the property belonging to the Adheenam.

ORDER:-

This Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.R.Manickavel, Advocate for the Petitioner and of Mr.M.M.Senthil Ayyanar, Govt.Advocate For R2 to 4 and 7 to 10, Mr.M.Muthugeethayan, Advcoate For R5 and Mr.S.Ramesh, Advocate For R6, this Court made the following order:



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Originally, W.P.(MD)No.22574 of 2022 had been filed by P.Markandan in the nature of a Mandamus seeking a direction against Respondents 1 to 4, the Commissioner, the Joint Commissioner and the Assistant Commissioner of Hindu Religious and Charitable Endowments Department at Chennai, Tirunelveli and Thoothukudi, respectively (R1, R2 and R3) and the Joint Commissioner cum Executive Officer, Arulmighu Subramania Swami Temple, Tiruchendur (R4) to consider the representation of the petitioner dated 06.09.2022 and direct the said respondents to retrieve and hand over the property belonging to the 5th respondent, Dharmapuram Aadheenam situated at Trichendur in Survey Nos.222A/1, 221A/3, 222B/1 and 222B/3 totally measuring an extent of 3.5 acres which according to the writ petitioner was under encroachment of 3rd parties, after following due procedure as contemplated under Section 78 of the Hindu Religious and Charitable Endowments Act, 1959 (hereinafter referred to HR & CE) and to take such other steps to secure the property belonging to the Adheenam.

2. This Writ Petition came up for consideration before a Division Bench of this Court (*R.Mahadevan, J. (as His Lordship then was)*) and one of us (*J.Sathya Narayana Prasad, J.*). During the course of hearing on 11.10.2022, the Division Bench had impleaded respondents 6 to 9, the District Collector, Tuticorin District, the



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Municipal Commissioner, Tiruchendur, Tuticorin District, the Joint Commissioner, Hindu Religious and Charitable Endowments Department, Tuticorin and the Sub Registrar, Tiruchendur, Tuticorin District, as further parties to the Writ Petition.

3. The Division Bench had passed a detailed order on 07.12.2022. In the said order, in paragraph No.8, the Division Bench had observed as follows :

“8. As directed by this court, the learned counsel for the fifth respondent filed a status report stating that the lands belonging to the fifth respondent have been encroached by the third parties by constructing houses, lodges, commercial establishments, marriage halls, besides occupying as vacant lands. It is further submitted that the fifth respondent has submitted complaint / report to the third respondent to take action against all the encroachers, as per section 78 of the HR&CE Act; and the initiation of the said proceedings is under progress. It is also submitted that till the action is taken by the third respondent, the fifth respondent sought an interim direction to the encroachers to deposit the arrears of rent and damages for use and occupation of the lands belonging to the Adheenam. The learned counsel has also filed a typed set of papers enclosing the communications exchanged among the respondents, to substantiate that the subject lands belonging to the fifth respondent have been encroached by the third parties. Therefore, the learned counsel prayed for appropriate direction to the eighth respondent who is the competent authority to pass orders to evict the



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encroachers and retrieve the properties of the fifth respondent”

4. Thereafter, in paragraph No.9, it had been further observed as follows :

“9. Pursuant to the order of this court dated 29.09.2022, the learned Special Government Pleader appearing for the HR&CE department filed a report on 11.10.2022, wherein, it is stated that the Tahsildar (temple lands), Thoothukudi, after field inspection, found that as per the revenue records, in patta no.1169, the subject lands measuring an extent of 3.53 acres stands in the name of Dharmapura Adheena Madam and the fifth respondent Adheenam is regularly paying taxes for the same and hence, steps may be taken to remove the encroachment in respect of the said lands. Based on the said report, the third respondent conducted field inspection on 01.09.2022 and 14.09.2022, during which, it was revealed that the subject lands have been encroached by illegally constructing commercial establishments, shops, lodges, hotels, residential houses, etc. Thereafter, further inspection was made on 30.09.2022 and 01.10.2022 and details of encroachments were collected by the third respondent, as per which, out of 3.53 acres belonging to the fifth respondent, there are 12 lodges to the extent of 1 acre and 13.62 cents, 58 residential houses to the extent of 1 acre and 56.3 cents, 14 shops to the extent of 26.54 cents and vacant lands to the extent of 25.29 cents. Thus, the lands measuring an extent of 3 acres and 21.75 cents belonging to the fifth respondent Adheenam,



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have been encroached by the third parties. Stating so, the third respondent made a recommendation to take action under section 78(1) of the HR&CE Act for removal of encroachments."

5. The Division Bench had then held as follows in paragraph Nos.11 and 12:

"11. Recently, in a comprehensive decision in a suo moto WP.No.574 of 2015 and WP(MD)No.24178 of 2018 dated 07.06.2021 [(2021) 5 MLJ 413], covering wide ranging issues related to preservation, protection and safeguarding the temples and its properties, a Division Bench of this court, in which, one of us (RMDJ) was a part, considered the above-mentioned judgments and reiterated the State's duty to remove illegal encroachments and ultimately, directed the authorities to identify the extent of temple lands and remove the encroachments. Reference may be had to the following paragraph for better appreciation of State's responsibility:

"30. At this juncture, it is needless to state that the properties of the temples/religious institutions belonging to them have to be maintained properly in order to derive more income so as to spend it for the betterment of the temples. The custodians of the temple properties are the trustees, HR&CE department and mutts, who must keep in mind the object and the reason behind such donations made to the temples. The endowments are created and the lands are donated in love, in



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faith and in satisfaction towards the one's contribution to the religion they profess, for the temples to be selfsufficient to perform all every day rituals, to ensure that people who profess and practice the same ideology and belief, are uplifted economically and spiritually and for the subsistence of their religion. A duty is cast on the Commissioner under Section 23, to ensure that such temples and endowments are properly administered and that their income is duly appropriated for the purposes for which they were founded or exist and therefore, whenever any order is passed, the object of the endowment is not to be forgotten. Section 29 of the Act lays down the preparation of register for all institutions by the Commissioner. That apart, the Joint Commissioners are clothed with the power to retrieve the temple lands from the encroachers by exercising the powers under Sections 78, 79 and 80. But, the officials have not properly exercised the power conferred on them and they are in dereliction of duties and responsibilities assigned to them. At least from now, the HR&CE Department should act diligently to retrieve all the properties under the encroachments."

Thus, under section 78 of the HR&CE Act, the Assistant Commissioner is conferred with the powers to report any factum of encroachment on temple lands, either on complaint or suo moto to the Joint Commissioner. The Joint Commissioner, upon perusal of such a report, shall conduct an enquiry and order removal of encroachment, if



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found to be true, after hearing the parties.

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12. In the light of the aforesaid legal proposition, this court is of the view that the present scenario as revealed from the reports of the third respondent as well as the fifth respondent that the subject lands belonging to the Adheenam have been encroached by the third parties, warrants the eighth respondent, who is the competent authority under the HR&CE Act, to take immediate action under section 78 of the HR&CE Act against the encroachers, remove the encroachments, retrieve the subject lands and handover the same to the fifth respondent, in accordance with law. Accordingly, this court directs the eighth respondent to take such action and complete the same, after hearing all the interested parties, within a period of twelve weeks from the date of receipt of a copy of this order.”

6. Finally, in paragraph No.13, the Division Bench had stated that the Writ Petition stood disposed of with the said directions.

7. A careful perusal of the directions issued would reveal that the Division Bench had directed the 8th respondent, Joint Commissioner, Hindu Religious and Charitable Endowments Department, Tuticorin, who is the competent authority under the HR & CE Act, to take immediate action in accordance with law under Section 78 of the HR & CE Act against the encroachers, remove the



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encroachments, retrieve the subject lands and hand over the same to the 5th respondent, Dharmapuram Adheenam. A further direction had been issued that the said 8th respondent shall take such action and complete the same after hearing all the interested parties within a period of 12 weeks from the date of receipt of a copy of that order.

8. The Division Bench was conscious of the fact that the Assistant Commissioner, Hindu Religious and Charitable Endowments Department, Tuticorin, had filed a report under Section 78(1) of the HR&CE Act before the Joint Commissioner, Hindu Religious and Charitable Endowments Department, Tuticorin. It was under those circumstances that a direction was issued to the Joint Commissioner, Hindu Religious and Charitable Endowments Department, to take further steps in accordance with the directions issued and in accordance with Section 78 of the HR & CE Act.

9. After the order of the Division Bench, the Joint Commissioner, Hindu Religious and Charitable Endowments Department, Tuticorin, had issued notices to 91 individuals, who, according to him, had encroached upon the lands of the Dharmapuram Adheenam. After the notices had been received by the said 91



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individuals, they formed an Association called Tiruchendur Santhana Mariamman Kovil Residents and Shop Owners Welfare Association by 18.05.2023 under registration No.SRG/Tuticorin/ 41/2023 and registered under the Tamil Nadu Societies Registration Act, 1961. The Association consisted of 99 members.

10. This Association, then approached the Hon'ble Supreme Court and filed SLP Civil Diary No.22172 of 2023. The Hon'ble Supreme Court by an order dated 04.07.2023 had held as follows :

"4. We have heard learned Senior Counsel on behalf of the petitioner – Association and perused the material placed on record.

5. In our considered view, the direction as contained in Para 12 of the impugned order of the High Court is with respect to removal of encroachment by third parties on the land/property which vests in the temple/trust. The members of the petitioner – Association who claim themselves to be true and bona fide owners and/or otherwise in lawful possession of their land/property, are thus, at liberty to approach the High Court and seek appropriate clarification to the effect that the directions issued by the High Court are not attracted in their case.

6. The Special Leave Petition is disposed of with liberty aforementioned.

7. In case the grievance of the true owners or those who are in lawful possession of the land/property is not effectively addressed by the High Court, they shall be at liberty to approach this Court again.



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8. *It is clarified that we have not expressed any opinion on the merits of the case."*

11. The Hon'ble Supreme Court by a further order dated 02.09.2024 had observed as follows :

"1. Pursuant to the liberty granted by this Court vide order dated 04.07.2023, the petitioner-applicant is stated to have moved WP(MD) No.23856/2023 before the High Court. It is averred that the said application has not been taken up for hearing and meanwhile Joint Commissioner, Tuticorin has initiated the eviction proceedings.

2. Keeping in view the averments made in the instant application, we deem it appropriate to request the High Court to take up the aforementioned WP(MD) No.23856/2023 for an early disposal, as and when deemed appropriate.

3. The Registrar Judicial (Writ Section) of the High Court shall put up the matter before the Hon'ble Chief Justice of the High Court along with copy of this order for early listing of the matter."

12. The association had filed the present Writ Miscellaneous Petition in W.M.P(MD)No.23856 of 2023 seeking clarification of the order dated 07.12.2022 in W.P.(MD)No.22574 of 2022. We heard the matter on 11.09.2024 and we had observed as follows :



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3. Paragraph 12 of the order dated 07.12.2022 of the Division Bench of this Court in W.P(MD) No.22574 of 2022, which had been referred in the order of the Hon'ble Supreme Court is as follows:

“12. In the light of the aforesaid legal proposition, this court is of the view that the present scenario as revealed from the reports of the third respondent as well as the fifth respondent that the subject lands belonging to the Adheenam have been encroached by the third parties, warrants the eighth respondent, who is the competent authority under the HR&CE Act, to take immediate action under section 78 of the HR&CE Act against the encroachers, remove the encroachments, retrieve the subject lands and handover the same to the fifth respondent, in accordance with law. Accordingly, this court directs the eighth respondent to take such action and complete the same, after hearing all the interested parties, within a period of twelve weeks from the date of receipt of a copy of this order”.

4. The petitioner is aggrieved by the usage of the word '**encroached**' and claim that the members of the Association are in lawful possession and also have title over the portion of land in which they are now in possession. It is further complained that a Show Cause Notice as envisaged under Section 78(1) of the Hindu Religious and Charitable and Endowments Act, 1959 had not been served but rather a notice in a Miscellaneous Petition has been served on the members of the Association. It is therefore complained that the procedure prescribed under law had not been followed by the respondents. It is also stated that



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immediately thereafter the enquiry proceeded at a fast pace and that the matter is listed today for arguments. It is complained that sufficient opportunity had not been granted to the members of the Association to produce documents relating to either possession or title over the lands for which they claim either possession or title.

5. The learned counsel appearing for the writ petitioner is present. There is representation on the side of the respondents 1 to 4 and 6 to 9. There is no representation on behalf of the fifth respondent, but the learned counsels who are present today stated that they would inform him about the proceedings today and the date to which it is now adjourned.

6. In the meanwhile, since a grievance had been raised that the procedure as required under the law had not been followed in letter and spirit, the enquiry officer/respondents 2,3 and 8 are directed to keep in abeyance further proceedings and await further orders of this Court.

7. The report of the Assistant Commissioner as contemplated under Section 78(1) of the Hindu Religious and Charitable and Endowments Act, 1959, the opinion under Section 78(2) of the Hindu Religious and Charitable and Endowments Act, 1959 of Joint Commissioner that there is prima facie material and the Show Cause Notice issued under Section 78(2) of Hindu Religious and Charitable and Endowments Act, 1959 may be produced before this Court."

(emphasis supplied)



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13. In the said order dated 11.09.2024, we had sought production of

(i) report of the Assistant Commissioner as contemplated under Section 78(1) of the Hindu Religious and Charitable and Endowments Act, 1959;

(ii) the opinion under Section 78(2) of the Hindu Religious and Charitable and Endowments Act, 1959 of the Joint Commissioner; and

(iii) the Show Cause Notice issued under Section 78(2) of Hindu Religious and Charitable and Endowments Act, 1959.

14. The report of the Assistant Commissioner under Section 78(1) of the HR & CE Act, had been forwarded to the Joint Commissioner in Na.Ka.No.4885/2021/E3 dated 11.10.2022. This report had also been referred in the order of the Division Bench, dated 07.12.2022 in paragraph No.9 extracted supra.

15. Today, Ms.B.Rashmi, the Suit Inspector, in the office of the Joint

Commissioner, Hindu Religious and Charitable and Endowments Department,

<https://www.mhc.tn.gov.in/judis>



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Tuticorin District (R8) is present in Court.

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16. The learned Government Advocate took instructions and also forwarded the original of the report, dated 11.10.2022 in Na.Ka.No.4885/2021/E3 of the Assistant Commissioner, Hindu Religious and Charitable and Endowments Department, forwarded to the Joint Commissioner, Hindu Religious and Charitable and Endowments Department. With respect to the opinion of the Joint Commissioner, Hindu Religious and Charitable and Endowments Department, it is contended that it is also a matter of record.

17. It is further clarified from the original records that the Assistant Commissioner had, with respect to each one of the 91 individuals forwarded separate reports to the Joint Commissioner to enable the Joint Commissioner to come to subjective satisfaction. The Joint Commissioner had also formed an opinion, after receiving such reports and had issued separate notices to 91 separate individuals.

18. After receipt of those notices, the Association came to be formed. The Association had approached the Hon'ble Supreme Court. As a matter of fact, it is informed by the learned counsel for the petitioner/ Association that there are 99



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members in the Association.

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19. A grievance had been raised that the notice as contemplated under Section 78(2) of the HR & CE Act had not been issued in its proper form. Even the nomenclature of the notice indicates that it had been issued under Section 78(1) of the HR & CE Act. It is contended that this is not a show cause notice and it is a summon issued to each one of the individuals.

20. But however, each one of those who had received the notices, had raised their objections and proceedings commenced and continued further before the Joint Commissioner, Hindu Religious and Charitable and Endowments Department with active participation of each one of the individuals who had received the notices.

21. The matter proceeded to such an extent that on the side of the 5th respondent/Dharmapuram Adheenam, oral and documentary evidence had adduced and the witness had also been cross examined on behalf of each individual member. Thereafter, each one of the individual members had also adduced oral evidence and produced documentary evidence. The matter was then reserved for



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passing of orders by the Joint Commissioner. It was at that stage that the Association had approached the Hon'ble Supreme Court. After the order of the Hon'ble Supreme Court, the matter had been placed before us. In the order dated 11.09.2024 which had been extracted above in paragraph No.6, we had issued a direction, directing the Joint Commissioner to keep in abeyance further proceedings and await further orders of this Court.

22. Heard Mr.R.Manikavel, learned counsel for the petitioner/ Association, Mr.M.Senthil Ayyanar, learned Government Advocate for the respondents 2 to 4 and 7 to 10, Mr.S.Ramesh, learned counsel for the 6th respondent and Mr.M.Muthugeethaiyan, learned counsel for the 5th respondent.

23. It had been contended that on behalf of the petitioner/ Association that the notices issued by the Joint Commissioner were not as contemplated under Section 78(2) of the HR & CE Act.

24. In order to examine this aspect in further it would only be appropriate that we extract Section 78 in its entirety.



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25. Section 78 in Tamil Nadu Hindu Religious and Charitable

Endowments Act, 1959 :

78. Encroachment by persons on land or building belonging to charitable or religious institution or endowment and the eviction of encroachers.

(1) Where the Assistant Commissioner having jurisdiction either suo motu or upon a complaint made by the trustee has reason to believe that any person has encroached upon (hereinafter in this section referred to as "encroacher") any land, building, tank, well, spring or water-course or any space wherever situated belonging to the religious institution or endowment (hereinafter referred to as the "property"), he shall report the fact together with relevant particulars to the Joint Commissioner having jurisdiction over the division in which the religious institution or endowment is situated.

Explanation. - For the purpose of this section, the expression "encroacher" shall mean any person who unauthorisedly occupies any tank, well, spring or water-course or any property and to include

-

(a) any person who is in occupation of property without the approval of the competent authority (sanctioning lease or mortgage or licence); and

(b) any person who continues to remain in the property after the expiry of termination or cancellation of the lease, mortgage or licence granted to him.

(2) Where on a perusal of the report received by him under sub-



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section (1), the Joint Commissioner finds that there is a prima facie case of encroachment, he shall cause to be served upon the encroacher a notice specifying the particulars of the encroachment and calling on him to show cause before a certain date why an order requiring him to remove the encroachment before the date specified on the notice should not be made. A copy of the notice shall also be sent to the trustees of the religious institution or endowment concerned.

(3)The notice referred to in sub-section (2) shall be served in such manner as may be prescribed.

(4)Where, after considering the objections if any, of the encroacher received during the period specified in the notice referred to in sub-section (2) and after conducting such inquiry as may be prescribed, the Joint Commissioner is satisfied that there has been an encroachment, he may by order and for reasons to be recorded require the encroacher to remove the encroachment and deliver possession of the property (land or building or space) encroached upon to the trustee before the date specified in such order.

(5)During the pendency of the proceeding, the Joint Commissioner shall order the encroacher to deposit such amount as may be specified by him in consideration of the use and occupation of the properties in question in the manner prescribed.]”

26. A careful perusal of the aforementioned provision states that the

Assistant Commissioner, if he forms an opinion either *suo motu* or on complaint



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made by any person of encroachment, he shall report that fact together with relevant particulars to the Joint Commissioner having jurisdiction over that particular Division.

27. In the instant case, the Assistant Commissioner had issued 91 separate reports to the Joint Commissioner giving the details of the names of the individuals who, according to him, were encroachers, the survey numbers of the lands encroached by them, the addresses of the lands encroached by them and the area of the lands encroached by them.

28. The provision further proceeds that under Section 78(2) of the Act, if the Joint Commissioner finds there is a *prima facie* case of encroachment, he shall cause a notice to be issued specifying the particulars of the encroachment and calling upon the addressee/encroachers to show cause before a certain date why an order requiring him to remove the encroachment before a specific date should not be made.

29. Unfortunately, the notices had been issued by the Joint Commissioner were under Section 78(a) of the HR & CE Act and not under Section 78(2) of the HR & CE Act. However, the enquiry has proceeded to a substantial



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extent. The grievance of the petitioner/Association is that the notice as contemplated under Section 78(2) of the HR & CE Act had not been issued.

30. In view of this particular, statement of fact, we are of the opinion that instead of proceeding further on the basis of notices which can be impinged in a Court of law, it would only be prudent that the Joint Commissioner issues a proper show cause notice as contemplated under Section 78(2) of the HR & CE Act, giving the particulars of encroachment namely, the name of the encroacher, the survey number of the land encroached, the address of the land and the area of the land encroached and any other relevant particular. These notices will have to be necessarily served on each one of the 91 individuals whom the Joint Commissioner is of the opinion are encroachers. These notices must be issued in accordance with Form-A of the Schedule in the Rules issued under the HR & CE Act, particularly, Rule 3(i).

31. We direct the Joint Commissioner, issue fresh notices as directed and in accordance with the said form.

32. This order has been passed after discussion with the learned counsel



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for the petitioner and we are confident that after this clarification had been issued, the petitioner would not again re-agitate the issue. We direct that these notices in appropriate form must be issued by the Joint Commissioner, Hindu Religious and Charitable and Endowments Department to each one of the individual encroachers.

33. We also had a discussion about the time limit within which the entire proceedings should be conducted. It had been mutually agreed by all the learned counsels and by the learned Government Advocate that these notices shall be issued within a period of one (1) month from the date of receipt of a copy of this order.

34. Thereafter, the learned counsel for the petitioner stated that an explanation to the said notices would be issued by each one of the individual persons to whom the notices had been issued within a period of three (3) months from the date of receipt of the notices.

35. We direct that the notices must be issued by registered post with acknowledgement due and also a physical copy must be served on each such individual or on the person who is residing in the house or available in business establishment as the case may be and proper acknowledgement must be given and



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obtained.

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36. Let there not be evasion of receipt of the notice and let the notice be served in proper form and in appropriate procedure. The explanations must be submitted, as stated by the learned counsel for the petitioner, within a period of three (3) months from the date of receipt of the notices. Let it be directly served in the office of the Joint Commissioner, Hindu Religious and Charitable and Endowments Department, Tuticorin, who may issue an acknowledgement for receipt of the explanations.

37. We would grant one (1) further month for the Joint Commissioner to consider the explanations and to take a decision whether to proceed further or not. Thereafter, after that particular decision is taken, we would grant six (6) months time for the parties to adduce evidence, oral and documentary.

38. We are conscious of the fact that the parties have already adduced oral and documentary evidence pursuant to the earlier notices issued under Section 78(1)(a) of the HR & CE Act. However, the parties may tender fresh evidence. The evidence already recorded may not be considered by the Joint Commissioner, unless



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specifically accepted by the parties.

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39. On conclusion of the adducing the evidence, we give one (1) month for the Joint Commissioner, to pass final orders. We direct the Joint Commissioner to follow the procedure as contemplated under Section 78 of the HR & CE Act in letter and spirit. Let there not be any deviation in that regard.

40. The time schedule framed would indicate that from the date of receipt of a copy of this order, the proceedings should end within a period of one (1) year/ twelve (12) months.

41. We again sought the opinion of the learned counsel for the petitioner about the procedure which we had indicated. The learned counsel expressed a clear statement across the bar that the members of the Association would abide by the directions and the time frame stipulated herein.

42. We would place a direction on each and every individual member of the Association to co-operate with the enquiry and not to evade avoidance of notice and not to protract the evidence/trial procedure.



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43. In view of the directions issued, the Writ Miscellaneous Petition stand disposed of with a fervent hope that the parties would abide with the time schedule stipulated, since the order has been passed only on discussion with the learned counsels.

44. We are conscious that we have to keep within directions issued by the Hon'ble Supreme Court and we hope that necessary clarification had been issued as directed by the Hon'ble Supreme Court.

Sd/-

Assistant Registrar (CO)

// True Copy //

/11/2024

Sub Assistant Registrar
(CS- I, II, III, IV)

TO

1.The Commissioner
Hindu Religious and Charitable Endowments
Department,Uthamar Gandhi Road,
Nungambakkam,Chennai- 600 034.

2.The Joint Commissioner
Hindu Religious and Charitable Endowments
Department, 14/1 Thiruvandran Road
Palayamkottai,Tirunelveli - 627 002.



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- 3.The Assistant Commissioner
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44, Palai Road, Tiruchendur,
Thoothukudi- 628215.
- 7 The Joint Commissioner,
HR and CE Deartment,Alageshapuram,
Near Americal Hospital Roundtana,
Tuticorin- 628002.
- 8 The Sub Registrar,
TB Road, Thiruchendur,
Tuticorin-628215.
- 9.The Special Govt. Pleader,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.SPECIAL GOVERNMENT PLEADER (SR-59655[F] dated 23/10/2024)



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WMP(MD). No.23856 of 2023

ORDER DATED : 22/10/2024

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ORDER

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WMP(MD). No.23856 of 2023

IN

WP(MD)NO.22574 OF 2022

Giving direction and etc.
as stated within.

RD(14/11/2024) 28P / 11C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023.