



W.P.No.3399 and 3401 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :30.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.3399 and 3401 of 2025 and
W.M.P.No.3770, 3774, 3776, 3778 of 2025

Mrs.Saraswathi ... Petitioner in W.P.No.3399 of 2025
N.Balasubramaniyan ... Petitioner in W.P.No.3401 of 2025

Vs.

1.The Commissioner
HR And CE Department,
Office of the Commissioner,
No 119, Uthamar Gandhi
Nungambakkam Chennai 600 034

2.The Joint Commissioner
HR And CE Department,
64/2 Neela South Street, Nagapattinam 611 001

3.The Assistant Commissioner
HR And CE Department
No 2 Mayiladuthurai Road Thiruvarur 611 001

4.The Executive Officer
Arulmigu Thiyagaraja Swamy Thirukovil
Also Executive Officer of Annathana Kattalai
At Arulmigu Thiyagaraja Swamy Thirukovil Thiruvarur 610 001

5.Velakkurichi Aadhina Thirumadam
Hereditary Trustee of Annathana Kattalai Attached To,
Arulmigu Thiyagaraja Swamy Thirukovil Thiruvarur
Thirupugalur, Nagapattinam 609 704 ... Respondents in both W.P.'s



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Prayer in W.P.No.3399 of 2025 Writ petition filed under Article 226 of Constitution of India seeking for issuance of Writ of Certiorari, calling for the records of the 2nd respondent impugned notice in M.P. No 730 / 2024 / C.2 dated 04.12.2024 and quash the same as illegal.

Prayer in W.P.No.3401 of 2025: Writ petition filed under Article 226 of Constitution of India seeking for issuance of Writ of Certiorari, calling for the records of the 2nd respondent impugned notice in M.P. No 731 / 2024 / C.2 dated 04.12.2024 and quash the same as illegal.

For Petitioner in : Mr.Sathiya Mohan
W.P.No.3399 of 2025 Senior Counsel
for M/s.SVV Law Firm

For Petitioner in : Mr.G.Shankaran
W.P.No.3401 of 2025 Senior Counsel
for M/s.SVV Law Firm

For Respondents : Mr.N.R.Arun Natarajan for R1 to R4
in both W.P.'s Special Government Pleader (HR & CE)
Mr.A.R.Nixon for R5



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COMMON ORDER

These writ petitions are filed challenging the notice issued by the 2nd respondent under Section 78 of HR & CE Act.

2. The impugned notice is a show cause notice for initiation of proceedings under Section 78 of HR & CE Act. It is for the petitioner to appear before the 2nd respondent and raise his objection with regard to the initiation of eviction proceedings under Section 78(1) of HR & CE Act. Under Section 78(1) of HR & CE Act, the Assistant Commissioner either *suo motu* or complaint from the trustee has reason to believe any person has encroached upon the property of the religious institution shall report the same to the Joint Commissioner and based on the report of the Assistant Commissioner, the 2nd respondent, Joint Commissioner is entitled to initiate proceedings. If it is the case of the petitioner that impugned proceedings initiated by the 2nd respondent is untenable in law, it is open to him to raise all his objections before the 2nd respondent. Hence, this Court is not inclined to entertain the writ



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petition. Accordingly, the writ petition stands dismissed. However, it is made clear that it is open to the petitioner to raise all his objections before the 2nd respondent and the same shall be considered by him and final orders shall be passed on its own merits and in accordance with law. No costs.

30.01.2025

Index:Yes/No
Internet:Yes/No
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To

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S.SOUNTHAR, J.

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