



W.P.No.4682 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.4682 of 2025
and W.M.P.No.5187 of 2025

1.Rajendra Kumar Jain
2.Madhu R.Jain

.. **Petitioners**

Vs.

1.The Commissioner
HR & CE Department
119, Uthamar Gandhi Rd
Nungambakkam, Chennai – 600 034.

2.The Joint Commissioner
HR & CE Department
Chennai Zone-2, No.130, Ramakrishna Mutt Salai
Mylapore, Chennai – 600 004.

3.The Assistant Commissioner
HR & CE Department, Padi
Chennai – 600 050.

4.The Assistant Commissioner
HR & CE Department,
Chennai Zone-2, Triplicane, Chennai – 600 005.



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5.The Executive Officer
Arulmighu Ekambaraswarar Thirukoil
Aminjikai, Chennai – 600 029.

.. **Respondents**

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, calling for the records relating to the notice dated 29.01.2025 issued by the 4th respondent under which possession was taken in respect of the petitioners' property at Door No.370, New No.709-711, Poonamallee High Road, Aminjikai, Chennai – 600 029 and to recall the said order and consequently direct the respondents to put the petitioners back in possession of the said property, after removing the seal, pending disposal of the Revision Petition viz., R.P.No.445 of 2023 pending on the file of the 1st respondent.

For the Petitioners : Mr.C.P.Sivamohan

For the Respondents : Mr.K.Karthikeyan
Government Advocate

ORDER

The Writ Petition is filed for a Certiorarified Mandamus, to call for the records relating to the notice dated 29.01.2025 issued by the 4th respondent under which possession was taken in respect of the petitioners' property at Door No.370, New Door No.709-711, Poonamallee High Road, Aminjikai, Chennai,



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and to recall the order and consequently direct the respondents to put back in possession of the said property after removing the seal, pending disposal of the Revision Petition in R.P.No.445 of 2023.

2. On a perusal of the affidavit filed in support of the Writ Petition and upon hearing the learned counsel for the petitioners, it is the contention of the petitioners that they are the owners of the property. They have been issued with a patta also. They have also got the relevant title deeds. Under the said circumstances, an erroneous order has been under Section 79 of the Hindu Religious and Charitable Endowments Act, 1959. The petitioner had already preferred a revision before the 1st respondent. When the stay petition is also pending, without deciding on the same, suddenly the possession was taken on 29.01.2025 and therefore, the petitioners are before this Court.

3. The learned counsel would submit that the respondents should maintain the *status quo ante* and decide the stay petition and the revision petition, by de-sealing the premises. The petitioners' tenants are also there and suddenly the



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possession has been taken and the premises are sealed. The parties are put to grave prejudice. When the Revision Petition is pending from the year 2023 along with the stay petition, the authorities ought to have awaited the decision in the stay petition. Therefore, the learned counsel submits that this Court should order de-sealing of the premises, until the 1st respondent decides the revision petition.

4. *Per contra*, the learned counsel appearing on behalf of the respondents – authorities would submit that already an eviction order was passed on 16.08.2020 in M.P.No.6 of 2018. The Revision Petition was also pending for the past two years and there was no order of stay. Therefore, the authorities have rightly executed the order and the possession was also taken on 29.01.2025 and if directed the Commissioner will dispose of the Revision Petition at an early date as may be fixed by this Court.

5. When the Revision Petition is pending, jurisdiction under Article 226 of the Constitution of India cannot be invoked for the purpose of interim orders



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pending revision. It is for the authorities to consider the interim orders. In any event, in the absence of an interim order, possession was taken on 29.01.2025, and now we are on 14.03.2025. Therefore, on the facts and circumstances of the instant case, I am of the view that if the revision can be disposed of at an early date and depending on the outcome of the revision, the keys can be given back to the petitioners.

6. Therefore, the Writ Petition is disposed of with a direction to the 1st respondent to dispose of the Revision Petition within a period of four weeks from the date of receipt of a website uploaded copy of this order, without insisting for the certified copy. It is stated that the matter has been listed for hearing on 24.03.2025. Therefore, the petitioners can very well be present before the authority and argue the matter on the same day. No costs. Consequently, the connected miscellaneous petition is closed.

14.03.2025

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