



WEB COPY



W.P.No.16219 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.16219 of 2025
and W.M.P.Nos.18335 & 18336 of 2025

N.Shiva

.. **Petitioner**

Vs.

1. The Commissioner

Hindu Religious And Charitable Endowment Department, Chennai

2. The Joint Commissioner

Hindu Religious And Charitable Endowment Department, Salem

3. The Assistant Commissioner

Hindu Religious And Charitable Endowment Department, Dharmapuri

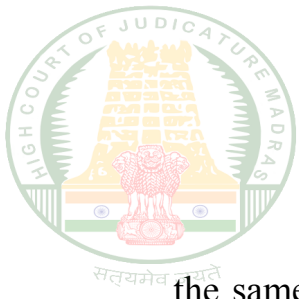
4. The Executive Officer

Arulmighu Siva Subramaniaswami Temple, Kumarasamipettai,

Dharmapuri Taluk And District

.. **Respondents**

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, calling for the final notice of the 4th respondent pertaining to his notice dated 15.04.2025 and 25.04.2025 and quash



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the same and direct the respondents to take any action against petitioner under the due process of law.

For the Petitioner : MM.Selvam

For the Respondents : Mr.K.Karthikeyan
Government Advocate

ORDER

This Writ Petition is filed for a Writ of Certiorarified Mandamus, calling for the records relating to the impugned orders dated 15.04.2025 and 25.04.2025 passed by the 4th respondent, quash the same and direct the respondents to take action on the petitioner.

2. Upon hearing the learned counsel for the petitioner, it is the grievance of the petitioner that he is a tenant under the 4th respondent temple namely Arulmigu Shiva Subramaniya Swamy Thiru Koil, Kumarasamy Pettai, Dharmapuri Taluk, in respect of the premises in S.No.248/part T.S.No.112 Block 8, Dharmapuri Town, Ward A, Kumarasami Pettai, Dharmapuri District, ad measuring 675 sq.ft., and he regularly and pays the monthly rent of Rs.6620/- without fail. The petitioner is running a commercial shop, where he is selling steel almirahs, etc. The petitioner has not violated any other terms of lease.



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While so by the impugned orders, the petitioner is directed to vacate the premises and handover the possession by 30.04.2025, aggrieved by which the petitioner has approached this court.

3. The learned counsel appearing on behalf of the petitioner would submit that once the petitioner is admitted to be a tenant under section 34 -B of the Hindu Religious and Charitable Endowments Act, 1959, lease can be terminated only for the reasons mentioned therein. There is no default in paying the rent or there is no violation of any other conditions that is imposed in the lease agreement. Therefore, the learned counsel submits that, since the only reason mentioned pertains to the storage of temple articles, the tenancy cannot be terminated solely on that ground. The learned counsel further submits that the petitioner cannot be dispossessed, especially when the petitioner alone has been singled out and targeted, despite the availability of other spaces for the temple's use.

4. When the matter came up for hearing, the learned Additional



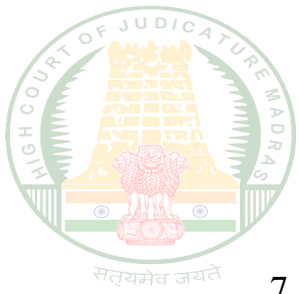
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Government Pleader appearing on behalf of the respondents would submit that there is no lease agreement in respect of the petitioner. The petitioner was requested by the temple authorities to vacate the premises. At that time, the petitioner submitted that he will vacate and handover the premises within 3 months. However as undertaken by him on the earlier occasions, he did not handover the premises and therefore the present notice impugned in this Writ Petition has been issued. This is a final notice that is issued to the petitioner.

5. I have considered the rival submissions made on either side and perused the material records of the case.

6. There is no lease period that is fixed in respect of the petitioner. Therefore the argument relating to Section 34-B of the Hindu Religious and Charitable Endowment Act 1959, cannot be countenanced by this Court. When the petitioner is paying monthly rent, and in the absence of a lease agreement, it is not improper to request the petitioner to hand over the property.



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7. Furthermore, if the property is required for temple purposes, such as accommodating the deity's vahanams during temple festivals, this Court cannot interfere under Article 226 of the Constitution of India. However, by the impugned orders, the petitioner is only requested to handover the possession. If the petitioner is not willing to handover the possession, the respondents have to resort to the provisions under Section 78 / 79 of the Hindu Religious and Charitable Endowments Act, 1959 and as and when any show cause notice is issued, the petitioner can raise all the defences which are available to him and with the aforesaid liberty saved to the petitioner and recording that the respondents will initiate further proceedings in the manner known to law for taking possession, this Writ Petition stands disposed of. No costs. Consequently, the associated miscellaneous petitions are closed.

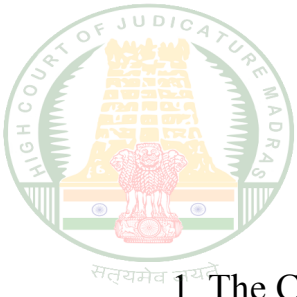
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Neutral Citation : Yes/No

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