



WP No. 24034 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-07-2025

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THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

WP No. 24034 of 2025

1. P.Padma

W/o. Packiri Swamy

Petitioner(s)

Vs

1. The Commissioner

HR & CE Department,

Officer Of The Commissioner,

No. 119 Uthamar Gandhi Salai,

Nungambakkam,

Chennai – 600 034

2. Joint Commissioner

HR & CE Department,

Combined Joint Commissioner Office

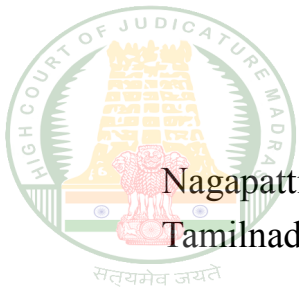
Nagapattinam,

Tamilnadu 611 001.

3. The Assistant Commissioner

HR & CE Department,

Combined Joint Commissioner Office



Nagapattinam,
Tamilnadu 611 001.

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4. The Executive Engineer
Arulmigu Gangalanathaswamy
Thirukovil,
Azhiyur, Nagapattinam Taluk,
Nagapattinam District

Respondent(s)

PRAYER

Calling for records of the 3rd respondent impugned notice in Na.Ka.No. 1893/2025/E1, dated 20.06.2025 and quash the same as illegal and pass appropriate orders as this Court.

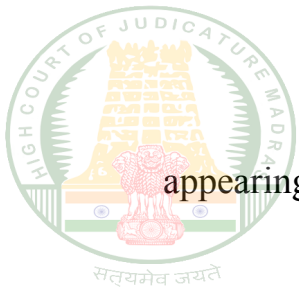
For Petitioner(s): Mr.G.Sankaran
Senior Counsel
for SVV Law Firm

For Respondent: Mr.S.Ravichandran
Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned notice issued by the 3rd respondent in Na.Ka.No.1893/2025/E1, dated 20.06.2025 under Section 79 of HR&CE Act, wherein the petitioner was directed to vacate and handover the possession of the property.

2. Heard Mr.G.Sankaran, learned Senior Counsel appearing for the petitioner and Mr.S.Ravichandran, learned Additional Government Pleader



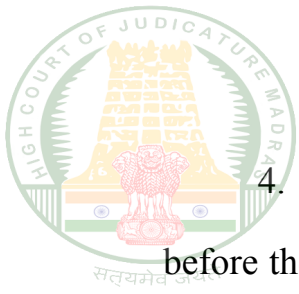
appearing for the respondents.

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3. The petitioner had earlier approached this Court and filed W.P.No.21206 of 2025, challenging the proceedings of the Joint Commissioner dated 02.06.2025 under Section 78(2) of the Act. This writ petition was disposed of by order dated 13.06.2025, and the relevant portion is extracted hereunder,

“3.In the considered view of this Court, the documents presented by the 3rd respondent may not be relevant, since the burden of proof is upon the petitioner to establish that she is a tenant in the property which belongs to the temple. In the absence of any documents, the petitioner will only be construed as an encroacher. Therefore, instead of the petitioner insisting for documents from the 3rd respondent, the petitioner must first place the relevant document to establish her status as a tenant in the property. Therefore, this Court does not find any ground to interfere with the order passed by the 2nd respondent, since the 2nd respondent found that the petitioner was an encroacher.

4.The petitioner has an effective alternative remedy by way of filing a revision before the Commissioner of HR & CE under Section 21 of the Act. Therefore, if the petitioner is aggrieved by the order passed by the 2nd respondent, it is left open to the petitioner to file a revision and workout her remedy in the manner known to law. Except giving this liberty, no further orders can be passed in this writ petition.”



4. Pursuant to the above order, the petitioner filed a Revision Petition before the Commissioner, HR&CE. Due to some deficiency, the papers seem to have been returned on 26.06.2025. By the time the petitioner rectified the defects and re-presented the petition, the impugned notice came to be issued by the 3rd respondent, which has been put to challenge in the present writ petition.

5. Learned Senior Counsel for the petitioner submitted that the defects have been rectified and the papers have been re-presented yesterday. Learned Senior Counsel for the petitioner further submitted that even before the 1st respondent could consider the Revision Petition filed by the petitioner, the 3rd respondent is taking hasty steps to evict the petitioner from the subject property.

6. Learned Additional Government Pleader appearing on behalf of the respondent submitted that the Revision Petition filed by the petitioner was returned for rectification of certain defects and it has not been re-presented. Hence, the 3rd respondent proceeded to issue a notice under Section 79 of the Act, calling upon the petitioner to vacate and hand over the property.

7. This Court had an opportunity to deal with a similar issue in earlier writ petitions, and one such writ petition is W.P.No.20906 of 2025. That was also a case where a Revision Petition had been filed and was pending before the Commissioner, and in the meantime, steps were taken to evict the occupants of the property. This Court directed the Commissioner to deal with the Revision



Petition and pass final orders, and in the meantime, directed the concerned Assistant Commissioner not to take any steps under Section 79 of the Act. A similar order can be passed in the present writ petition also.

8. In the light of the above discussions, the writ petition is disposed of in the following terms,

(a) The impugned notice issued by the 3rd respondent in Na.Ka.No.1893/2025/E1, dated 20.06.2025 is hereby quashed.

(b) There shall be a direction to the 1st respondent to number the Revision Petition and to hear the same after affording opportunity to the petitioner and pass orders on its own merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.

(c) Subject to the final order to be passed by the 1st respondent in the Revision Petition, the 3rd respondent can take a decision on the revival of the eviction notice issued under Section 79 of the Act.



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No costs. Consequently, the connected miscellaneous petitions, if any, are closed.

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03-07-2025

Note: Issue order copy today (i.e., 03.07.2025).

gd

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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To

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Officer Of The Commissioner,
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N.ANAND VENKATESH J.

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