



Writ Petition No.31256 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 21.08.2025

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Writ Petition No.31256 of 2025

and

W.M.P.No.34985 of 2025

P.Senthilkumar
S/o.Palaniappan

..Petitioner

Vs.

1.The Joint Commissioner (HR & CE) Department,
Tirupur.

2 The Assistant Commissioner (HR & CE) Department,
Karur.

3. Arulmigu Bala Subramaniaswamy Temple,
Rep. by its Executive Officer,
Vennaiimalai, Karur District – 639 006.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order of the first respondent dated 06.05.2025 in MISC No.397/2024/ 23 and quash the same.

For Petitioner : Mr.A.Mohamed Ismail



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For Respondents : Mr.N.R.R.Arun Natarajan
Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned proceedings of the first respondent dated 06.05.2025 made in MISC No.397/2024/अ३ under Section 78 of the Hindu Religious and Charitable Endowment Act, 1959 [hereinafter referred to as 'the Act'] holding that the petitioner is an encroacher of the temple land and the petitioner has been directed to vacate and hand over the premises failing which proceedings will be initiated under Section 79 of the Act to take possession.

2. Heard Mr.A.Mohamed Ismail, learned counsel for petitioner and Mr.N.R.R.Arun Natarajan, learned Additional Government Pleader appearing for respondents.

3. The specific case of the petitioner is that he is the absolute owner of the subject property by virtue of a registered sale deed dated 19.10.2011 registered as document No.2216 of 2011. The further case of the

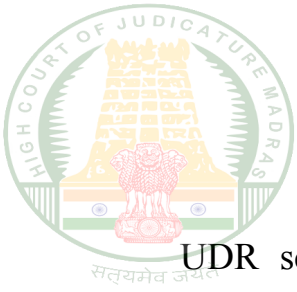


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petitioner is that patta was also issued in his name and the property tax and water tax is assessed in the name of the petitioner. Apart from that, the petitioner is also paying electricity bills in his name.

4. The grievance of the petitioner is that all of a sudden, the first respondent has initiated proceedings under Section 78 of the Act treating the petitioner as an encroacher of the property alleged to be belonging to the temple. The petitioner had submitted all the relevant documents before the first respondent to prove the right and title and in spite of the same, the first respondent has held that the petitioner is an encroacher and has directed the petitioner to vacate and handover possession of the property. It is under these circumstances, the present writ petition came to be filed before this Court.

5. On going through the order passed by the first respondent, it is seen that the first respondent has taken into consideration the earlier documents that were available in the name of the temple. It is also seen that the change in the name in the revenue records has taken place during the UDR scheme and the first respondent has ascertained the fact that such change in name during the



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UDR scheme was taken advantage and documents were created as if the property in question is a private property. In view of the same, the first respondent has rendered a finding that the petitioner is an encroacher.

6. In the considered view of this Court, the proceedings initiated by the Hindu Religious and Charitable Endowment Department against the petitioner virtually creates a cloud over the title of the petitioner. Therefore, the petitioner has to approach the competent civil Court and establish his right and title over the property by seeking for the relief of declaration and for consequential reliefs. This issue cannot be decided by the Joint Commissioner since the Joint Commissioner can exercise a limited jurisdiction and not to the extent to which a civil Court will exercise its jurisdiction. Now that a cause of action has arisen for the petitioner, no useful purpose will be served for the petitioner to agitate the dispute before the authorities under the Act. Therefore, either the petitioner has to approach the civil Court and seek for necessary relief or the petitioner has to file a revision before the Commissioner, Hindu Religious and Charitable Endowment Department, under Section 21 of the Act. The issue raised in the present writ petition cannot be decided under Article 226 of the



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Constitution of India. Therefore, except giving this liberty, no further orders can be passed in this writ petition.

7. This writ petition is disposed of in the above terms. No costs.

Consequently, connected miscellaneous petition is closed.

Registry is directed to return the original order passed by the first respondent to the learned counsel for the petitioner in order to enable the petitioner to work out his remedy.

21.08.2025

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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To

1.The Joint Commissioner (HR & CE) Department, Tirupur.

2. The Assistant Commissioner (HR & CE) Department, Karur.

3.The Executive Officer,

Arulmigu Bala Subramaniaswamy Temple,
Vennaiimalai, Karur District – 639 006.

N. ANAND VENKATESH, J.



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