



W.A.No.1776 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2025

CORAM:

THE HONOURABLE MRS.JUSTICE J. NISHA BANU
and
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

W.A.No.1776 of 2024

Sri La Sri Sivanandha Mouna Swamigal,
Arakkattalai,
Rep.by its Joint Secretary,
Mr.A.Kirupanandam,
Thiruvalam, Sannathi Street,
Katpadi Taluk,
Vellore District,
Tamil Nadu-632 515.

...Appellant/ Petitioner

Vs.

- 1.The Principal Secretary/Commissioner,
Hindu Religious and Charitable Endowments Department,
Mahatma Gandhi Salai,
Nungambakkam,
Chennai-600 034.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Vellore.
- 3.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Vellore.
- 4.The Executive Officer-cum-Fit Person,
Arulmigu Vilvanthaeswarar Thirukoil,



W.A.No.1776 of 2024

Thiruvalam, Katpadi Taluk,
Vellore District.

...Respondents

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PRAYER : Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 30.04.2021 passed in W.P.No.16001 of 2020 and thereby the order passed by the first respondent made in R.P.No.141 of 2019 dated 01.07.2021, whereby, confirming the order of the second respondent made in proceedings PROC.RC.No.103367/2013 C.1 dated 21.01.2019 as illegal, arbitrary and unjust.

For Appellant : Mr.J.Ramesh

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

J U D G M E N T

(The Judgment of the Court made by Justice M. JOTHIRAMAN)

This Intra-Court Appeal is filed to challenge the order dated 30.04.2021 passed in W.P.No.16001 of 2020.

2. The appellant is the writ petitioner in W.P.No.16001 of 2020 and filed a writ petition to call for the records relating to the order passed by the first respondent, namely, the Commissioner, Hindu Religious and Charitable Endowments, Chennai, made in R.P.No.141 of 2019 dated 01.07.2021, whereby, the order of the second respondent, namely, the



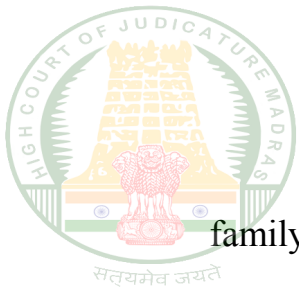
W.A.No.1776 of 2024

Joint Commissioner, Hindu Religious and Charitable Endowments,

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Vellore, made vide proceedings in PROC.RC.No.103367/2013 C.1 dated 21.01.2019 was confirmed. The learned Single Judge of this Court dismissed the writ petition on the ground that the question of title to the property is one of fact and consideration of evidence, which exercise cannot be embarked upon in a writ petition under Article 226 of the Constitution of India. It is also observed that the statutory scheme as seen from a combined reading of Section 78(4) and Section 79(2) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, is that where the question of title to a property is raised by a noticee under Section 78(2) of the Act, it is for the Departmental Authorities to look into the evidence in this regard and arrived at finding as to the appropriate Authority with whom the title vests.

3. The learned counsel appearing for the appellant would submit that the appellant/petitioner is the owner of the superstructure which was built in the year 1998 in the petition mentioned property in commensuration to the saint “Sri La Sri Sivanandha Mouna Swamigal”. The learned Single Judge failed to appreciate that as per the scheme decree passed in O.S.No.23 of 1917, one Trustee was to be from the



W.A.No.1776 of 2024

WEB COPY

family of Vaithi Subburama Iyer and two Trustees from the general public. He would submit that one of the Trustees appointed by the Assistant Commissioner, Hindu Religious and Charitable Endowments Department, vide proceedings dated 24.07.1974, has appointed the Saint “Sri La Sri Sivanandha Mouna Swamigal” as the Trustee of the said Charity and the said fact has been admitted in the counter affidavit filed by the Department concerned. He would submit that the Commissioner and the Joint Commissioner of the Hindu Religious and Charitable Endowments Department have agreed that the appellant is the tenant and the respondents have received a sum of Rs.1,95,000/- towards rent for the petition mentioned property for the period from 01.08.2008 to 31.03.2010, and therefore, having paid the rent, the appellant/writ petitioner cannot be treated as encroacher. The respondents Department have also calculated the arrears of rent to the tune of Rs.14,34,000/- and communicated the same to the appellant/writ petitioner. They did not give time to pay the same. The learned counsel would further submit that the learned Judge ought not to have passed unilateral order dated 30.04.2021 and failed to appreciate that the restoration petition filed by the appellant/writ petitioner in W.M.P.No.17788 of 2022 was constrained to withdraw the same.



W.A.No.1776 of 2024

WEB COPY

4. Per contra, the learned counsel appearing on behalf of the respondents Department would submit that the appellant/writ petitioner was an encroacher and therefore, the appellant was directed to remove the encroachment caused in the petition mentioned property and to vacate and hand over the possession to the Department. The Joint Commissioner is right in declaring the appellant/writ petitioner as encroacher. Aggrieved over the same, the appellant/writ petitioner has preferred a revision before the Commissioner in R.P.No.141 of 2019. Upon considering the legal aspects, it was found that the appellant/writ petitioner has been squatting upon the property without any legal right.

5. We have considered the submissions made on either side and perused the materials available on record.

6. It is seen from the records that the Joint Commissioner, Hindu Religious and Charitable Endowments Department, Vellore, has passed an order under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, in PROC.Na.Ka.No.10367/2013/E1 dated 21.01.2019, declaring the appellant/petitioner herein as encroacher as defined in Explanation to Section 78 of the said Act, and ordered to



W.A.No.1776 of 2024

remove the encroachment caused in the property, vacate and hand over the vacant possession to the Executive Officer cum Fit Person, Arulmigu Vilavanatheswarar Temple, Tiruvalam, Katpadi Taluk, Vellore District and also to pay a sum of Rs.13,12,650/- towards damages for the use and occupation of the property till 31.12.2018. Aggrieved over the same, the appellant/writ petitioner has preferred a revision under Section 21 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 before the Commissioner, Hindu Religious and Charitable Endowments Department and the same came to be dismissed on 01.07.2020 by confirming the order of the Original Authority. A perusal of the order of the Original Authority passed under Section 78 of the Act dated 21.01.2019 as well as the impugned order dated 01.07.2020 shows that the issue involved in this writ appeal is with regard to the question of title to the temple property to an extent of 14,300 sq.ft in Survey No.248/10, Sannadhi Street, Tiruvalam Village.

7. It is seen from the records that the property is also being used by Sri La Sri Sivananda Mounaswamy Mutt as Marriage hall. After considering the facts and the documents and the evidence adduced on both sides, the Original Authority as well as the Revisional Authority



W.A.No.1776 of 2024

WEB COPY

have come to a finding that the title to the property stands only in the name of the Temple. In the revision order, the Commissioner, Hindu Religious and Charitable Endowments Department, mentioned that the appellant/writ petitioner has been squatting upon the temple property without any legal right whatsoever. The order of the Joint Commissioner declaring the appellant/writ petitioner to be an encroacher was thus confirmed and in pursuant thereto, the Temple has taken possession of the property. It is seen from the records that the appellant/writ petitioner has filed an application in C.M.P.No.21760 of 2022 in W.A.SR.No.130780 of 2022 seeking to condone the delay of 185 days to set aside the order dated 30.04.2021 passed in W.P.No.16001 of 2020. The Hon'ble Division Bench of this Court, vide order dated 16.12.2022, dismissed the said application on the ground that no sufficient cause was shown and the delay has not been explained with proper and sufficient cause. It is pertinent to mention that the provision of Section 79(2) of the said Act provides for a civil suit to be filed by the party aggrieved by the decision made under Section 78(4) of the said Act, before the appropriate Jurisdictional civil Court within a period of six months from the date of receipt of a copy of the order passed under Section 78(4) of the said Act by the aggrieved party.



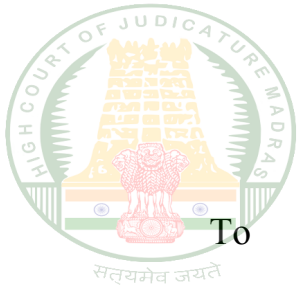
W.A.No.1776 of 2024

WEB COPY 8. In view of the above discussion, We do not find any reason to interfere with the order dated 30.04.2021 passed by the learned Single Judge of this Court in W.P.No.16001 of 2020 and there is no merit in this appeal and the same is liable to be dismissed.

9. Accordingly, this Writ Appeal is dismissed. There shall be no order as to costs.

(J.N.B., J.) (M.J.R., J.)
11.06.2025

ssb
Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No



W.A.No.1776 of 2024

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WEB COPY

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WEB COPY



W.A.No.1776 of 2024

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