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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2025

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THE HONOURABLE MR.JUSTICE P.B. BALAJI

W.P. No.41615 of 2025

and WMP. No.46641 of 2025

A.Devaki

Petitioner

Vs

- 1.The Joint Commissioner,
Hindu Religious & Charitable
Endowment Board,
Kariya Perumal Karadu, K.P.Kardu Road,
Nethimedu, Salem – 636 002.
- 2.The Assistant Commissioner,
Hindu Religious & Charitable
Endowment Board,
Kariya Perumal Karadu, K.P.Kardu Road,
Nethimedu, Salem – 636 002.
- 3.Arulmigu Sri Siddhi Vinayagar Temple,
Rep. by Trustee D.Ravichandaran,
S/o.Duraisamy Achari, Longly Road,
Kottai Main Road, Salem -636 002.

Respondents

PRAYER: This petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the proceedings in show cause notice No.2833/2024 of HR &CE under Section 78(2) dated 19.09.2025 on the file of the first respondent herein and quash the same.



For Petitioner : Mr.T.Murugamanickan,
Senior Counsel for
Ms.Sathya

For Respondents : Mr.N.R.R.Arun Natarajan,
Special Government Pleader for HR & CE

ORDER

This Writ Petition is filed to quash the show cause notice No.2833/2024 of HR &CE under Section 78(2) dated 19.09.2025 on the file of the first respondent.

2. Heard Mr.Murugamanickam, learned Senior Counsel for Ms.D.Sathya, learned counsel for the petitioner and Mr.N.R.R.Arun Natarajan, learned Special Government Pleader for the respondents.

3. The writ petitioner challenges show cause notice issued in 2833/2024 dated 19.09.2025 under Section 78(2) of the Hindu Religious and Charitable Endowments Act, 1959 (in short 'HR & CE Act'). The grievance of the writ petitioner is that the petitioner is a tenant and has been paying the rents and in fact, has paid the rents in advance, upto December



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2025, by depositing the rents before the District Munsif Court, Salem. The learned Senior Counsel would however fairly submit the Department has not taken steps to withdraw the rents. While so, the show cause notice in Na.Ka.No.2833/2024/A3 dated 06.05.2024 was issued to the petitioner calling upon the petitioner to handover possession, since the Trustees have made a request to the Department for repossessing the building for the purposes of demolition and reconstruction and the petitioner has also given his response to the same on 16.10.2024. According to Mr.T.Murugamanickam, learned Senior Counsel, further proceedings were not taken pursuant to the reply notice and suddenly, the present impugned show cause notice has been issued treating the petitioner as an encroacher, which is contrary to the own records of the respondents, especially the earlier show cause notice and related proceedings. He would therefore state that though it is only a show cause notice, the petitioner cannot be mulcted with the additional burden of going before the Authorities and establishing that he is not an encroacher, which is not the case of the respondent themselves.



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4. Per contra, Mr.N.R.R.Arun Natarajan, learned Special Government Pleader appearing for the Department would submit that the present impugned show cause notice is not a fresh show cause notice but only in continuation of the earlier show cause notice issued in May 2024. In this regard, he would invite my attention to the subject of the show cause notice reference number which refers to the very same number, 2833/2024 dated 19.09.2025. I find that the earlier show cause notice was also issued under the very same reference No.2833 of 2024. However, in the earlier proceedings, it was only a communication which was calling upon the petitioner to show cause as to why the petitioner should not be required to vacate and handover possession, since the building has become old and is in a dilapidated condition. Admittedly, the said show cause notice issued in May 2024 was not invoking Section 78 of the HR & CE Act. Therefore, the argument of Mr.N.R.R.Arun Natarajan, learned Special Government Pleader, that it is only a continuation of the earlier show cause notice cannot be countenanced, in view of the fact that the impugned show cause notice is invoking Section 78(2) of the HR & CE Act, terming the petitioner as an encroacher. Mr.N.R.R.Arun Natarajan, learned Special Government



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Pleader would also invite my attention to Section 80 of the HR & CE Act and he would state that the first show cause notice may be treated as one under Section 80 of the HR & CE Act, where the lessees can be called upon to hand over possession in certain eventualities.

5. In the light of the above, I am inclined to dispose of the Writ Petition in the manner following:

The show cause notice dated 19.09.2025 in 2833/2024 under Section 78(2) is set aside. However, it is clarified that it is open to the respondents to continue and revive the earlier enquiry proceedings in Na.Ka.No.2833/2024/A3 dated 06.05.2024 and after giving fair opportunity to the petitioner, the respondent may pass further orders in the said proceedings. No costs. Consequently, connected Miscellaneous Petition is closed.

05.11.2025

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P.B.BALAJI.J.,

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To

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