



W.P.No.46612 of 2025
and W.M.P.No.51999 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2025

CORAM

THE HONOURABLE MR. JUSTICE **P.B.BALAJI**

W.P.No.46612 of 2025
and W.M.P.No.51999 of 2025

N.Kunchithapatham

... Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable
Endowments Department,
Chennai – 600 034.

2. The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
Nagapattinam – 611 001.



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3.The Executive Officer,
Arulmigu Sundareshwaraswamy
and Lakshminarayana Perumal Thirukovil,
Marugangoor Village,
Nagapattinam.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to N.Dis.No.2082326/2025/D2 dated 17.10.2025 passed by the first respondent and quash the same and direct the first respondent to number and admit the revision.

For Petitioner : Mr.A.M.Packianathan Easter

For Respondent : Mr.K.Karthikeyan

Government Advocate

ORDER

Heard Mr.A.M.Packianathan Easter, learned counsel for the petitioner and Mr.K.Karthikeyan, learned Government Advocate for the respondents.



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2. The petitioner claiming to be owner of the subject property having become entitled to the same under the partition deed of the year 1970 seeks to issuance of Writ of Certiorarified Mandamus to quash the proceedings of the first respondent dated 17.10.2025 and to direct the first respondent to number and admit the revision petition.

3. The case of the writ petitioner is that the petitioner's title has been declared in civil proceedings, however, the counsel for the petitioner fairly submitted that the temple is not a party to any of these proceedings. However, the grievance of the petitioner is that without having served notice on the petitioner in Section 78 proceedings initiated by the department, an *ex parte* order came to be passed. The petitioner has challenged the said proceedings before the first respondent by filing a revision under Section 21 of the Tamil Nadu Hindu Religious and Charitable Endowments Act. However, the first respondent has dismissed the application on the ground that the delay beyond 90 days cannot be condoned by the first respondent. The case of the petitioner is that the petitioner was never put on notice in first place and came to know about the impugned



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order only in September 2025 by proceedings Na.Ka.No.2540/2025/A5 dated 18.09.2025, in response to the representation given by the petitioner to the Chief Minister Special Cell. Immediately the petitioner has filed a revision petition challenging the proceedings under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act. Since there has been a delay, the petitioner has sought for condonation of delay of 128 days, the said application has been dismissed. The learned counsel for the petitioner also claims that the petitioner is aged above 94 years and that he had no able assistance to take up the matter with the authorities and prosecute the revision petition.

4. Mr.K.Karthikeyan, learned Government Advocate however submits that the petitioner is an encroacher and rightly proceedings have been initiated under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act. He would also state on instructions that the petitioner has been served with notice in the Section 78 proceedings as early as in October 2023. In support of the same, the petitioner also relies



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on registered letter addressed to the writ petitioner in this regard and he claims that the notice has been served on the writ petitioner. The acknowledgment alleged to be made by the petitioner does not carry any date and also does not appear to be reverse of the acknowledgment card which is enclosed along with the instruction sheet to the counsel for the respondent. The signature also appears to be totally varying from the petitioner's signature, which is found in the other documents and also taking into account that the petitioner has been making best efforts to safeguard the property since the representation to the Chief Minister Special Cell and only in response to the same, the petitioner was put on notice about the order passed in Section 78 proceedings, the case of the petitioner that he was dark all through is justified and acceptable.

5. Further, the petitioner has not been put on notice about the orders passed in Section 78 proceedings. The notice which has been pasted on the premises is occupied by a tenant admittedly and the petitioner is not residing there. Also the petitioner and the tenant are not in good terms. Therefore, the imparting knowledge of the proceedings



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on the petitioner, based on the said notice sent to the premises occupied by the tenant cannot be accepted as proper service. Be that as it may, the petitioner is aged 94 years and he claims to be owner of the subject property under a registered partition deed of the year 1970.

6. In the light of the above, it would be proper for the first respondent to give a last opportunity to the petitioner to prosecute the revision petition, without putting delay against the writ petitioner. Even though the first respondent may not have power to condone the delay beyond 90 days, when it is found that the petitioner has not been served with the proceedings and also consequential orders passed under Section 78 proceedings, delay cannot be put against the petitioner and in such circumstances the first respondent can certainly exercise his discretionary power to entertain the revision and dispose of the same on merits.



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7. In the light of the above, I am inclined to partly allow the writ petition. The impugned order of the first respondent dated 17.10.2025 is set aside and the first respondent is directed to number the revision filed on 16.10.2025 and dispose of the same on merits and in accordance with law, after giving a fair opportunity to the petitioner to advance submissions, both legal and factual, in the main revision petition. The said revision petition shall be disposed of within a period of three months from the date of numbering the revision petition. Till then, the petitioner shall not be dispossessed. The proceedings for recovery of possession shall be deferred till a final decision is taken by the Commissioner, HR & CE Department.

8. In the result, this Writ Petition is partly allowed. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

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Index: Yes/No

Internet: Yes/No

Speaking/Non-Speaking order
mtl

To

1.The Commissioner,
Hindu Religious and Charitable
Endowments Department,

8/11



Chennai – 600 034.



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2. The Joint Commissioner,
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