

W.P.(MD)No.4738 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.4738 of 2025

and

W.M.P.(MD)No.3434 of 2025

Shanmuganathan

... Petitioner

-VS-

1.The District Collector,
Virudhunagar District,
Virudhunagar Town.

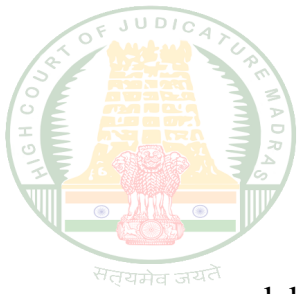
2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Madurai.

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Virudhunagar District.

4.The Executive Officer,
A/m. Vaithiyanathasamy Thirukovil,
Madavarvalagam,
Srivilliputhur Town and Taluk,
Virudhunagar District.

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned order



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passed by the second respondent in Miscellaneous Petition No.61/2023, dated 28.01.2025 and quash the same as arbitrary and illegal.

For Petitioner : Mr.M.Thirunavukkarasu
For R1 to R3 : Mr.K.S.Selvaganesan
Additional Government Pleader
For R4 : Mr.P.Mahendran
Standing Counsel

ORDER

The Eviction order issued under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (hereinafter referred to as 'HR & CE Act'), dated 28.01.2025, is under challenge in the present writ petition.

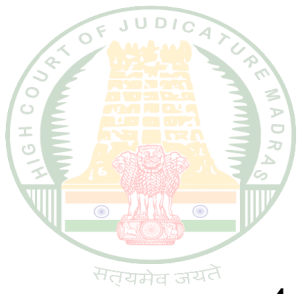
2. The petitioner states that the properties comprised in S.Nos.117/1J, 117/1L, 117/2A, 117/2C and 117/2L, measuring an extent of 0.45.00 Hectare were originally purchased by one Sankaralingam Pillai and Deivanayagam Pillai, vide registered sale deed, dated 11.08.1993. Thereafter, the said Sankaralingam Pillai and Deivanayagam Pillai had orally partitioned the above said properties and in the oral partition, the properties comprised in Inam Adangal No.47 were allotted to the share of Sankaralingam Pillai.



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3. The petitioner further states that his paternal grandmother, Shanmugathaiammal's legal heirs namely, Muthaiah, Nagalingam Pillai, Appavu Pillai and Ramasamy Pillai, who is the father of the petitioner have partitioned the above said properties and the properties comprised in S.Nos.117/1J, 117/1L, 117/2A, 117/2C and 117/2L, measuring an extent of 0.45.00 Hectare (1 Acre and 11 Cents) were allotted to the share of the petitioner's father Ramasamy Pillai. After the death of the petitioner's father, his legal heirs namely, Guruvammal, Muthuvel, Marimuthu, Shanmuganathan and Gomathi are jointly enjoying the above said properties. Due to some dispute over the title of the subject property, the petitioner and his brother filed a civil suit against the respondents herein in O.S.No.530 of 2023, on the file of the Additional Sub-Court, Srivilliputhur, for declaration and permanent injunction. During the pendency of the said suit, the proceeding under Section 78(2) of the H.R. & C.E. Act was initiated against the petitioner, a notice was issued to the petitioner and his brothers on 12.12.2023 and finally, the second respondent has passed the impugned order dated 28.01.2025.



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4. The learned Additional Government Pleader appearing for the respondents 1 to 3 and the learned Standing Counsel appearing for the fourth respondent submit that the petitioner was a tenant in a portion of the Temple property, comprised in S.Nos.117/1J, 117/1L, 117/2A, 117/2C and 117/2L, which belongs to A/M.Vaithiyanathasamy Thirukovil, Madavarvalagam, Srivilliputhur, Virudhunagar District. The petitioner was paying the yearly rent of Rs.560/- for the usage of his portion of the land leased out by the temple authorities. The petitioner put up certain construction on his own costs.

5. Admittedly, the lease was not extended by the temple authorities. The lease was terminated long back by the authorities. Thus, the petitioner was considered as an encroacher under Section 78 of the HR & CE Act and accordingly, eviction proceedings were initiated and final orders have been passed under Section 78 of the HR & CE Act. Further, as against the impugned order, a revisional remedy is available under Section 21 of the HR & CE Act.

6. Heard both sides.



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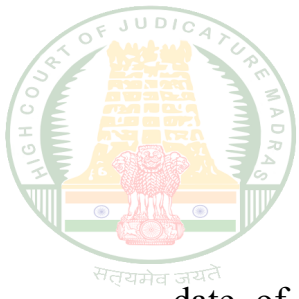
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7. Considering the above said submissions and on perusal of the materials, it is seen that the order impugned under Section 78 of the HR & CE Act is appealable and a revisional remedy is available under Section 21 of the HR & CE Act.

8. The petitioner has not preferred any revision and more so, the learned Standing Counsel appearing on behalf of the fourth respondent state that the petitioner is an encroacher and now, the property is required for the purpose of the Temple use.

9. Admittedly, the petitioner is not holding any valid lease as of now. This being the factum, the petitioner is not entitled for any relief from the hands of this Court.

10. In view of the above, if at all the petitioner is aggrieved, he is at liberty to file a revision petition under Section 21 of the HR & CE Act before the Commissioner, H.R and C.E. Department, within a period of two weeks from the



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date of receipt of a copy of this order. Upon receipt of such revision, the Commissioner, H.R and C.E. Department shall consider it on merits and pass appropriate orders in accordance with law, within four weeks thereafter. In the interregnum, the respondents shall maintain *status quo* prevailing as on date. It is also made clear that this Court has not expressed any of its views with regard to the merits of the matter and that it is open to the Commissioner, H.R and C.E. Department to consider the same on its own merits.

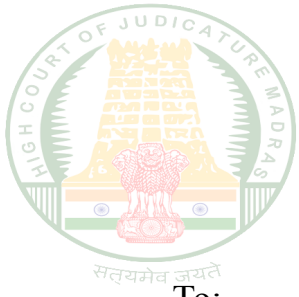
11. With the above observations and directions, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

NCC : Yes / No
Index : Yes / No
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(2/2)

Copy to:-

The Commissioner,
Hindu Religious and Charitable Endowments Department,
Door No.119, Uthamar Gandhi Road,
Thousand Lights West, Nungambakkam,
Chennai – 600 034.



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VIVEK KUMAR SINGH, J.

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