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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.7356 of 2025
and
WMP (MD) Nos.5560, 5561 & 5562 of 2025

Murugan : Petitioner

Vs.

1. The Commissioner,
The Hindu Religious and Charitable
Endowments Department,
No. 119, Uthamar Gandhi Salai,
Chennai -34.

2. The Joint Commissioner,
The Hindu Religious and Charitable
Endowments Department,
Tirunelveli Region,
Thiruvanathapuram Road,
Palayamkottai, Tirunelveli.

3. The Assistant Commissioner,
The Hindu Religious and Charitable
Endowments Department,
Mettu Street,
Vadiveeswaram,
Nagercoil,
Kanniyakumari District.

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4. The Fit Person,
Arulmigu Mutharamman Thirukovil,
Ramapuram Post, Sankaranputhur,
Nagercoil, Kanniyakumari District. : Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order in M.P.No. 205 of 2024 dated 10.02.2025 passed by the 2nd respondent and quash the same and consequently forbear the 3rd and 4th respondents from evicting the petitioner from the land in Survey No. 539/4, Ramapuram Village, Agastheeswaram Taluk, Kanniyakumari District.

For Petitioner : Mr.K.Navaneetharaja
For Respondents : Mr.K.S.Selvaganesan
Addl. Government Pleader for R1 to R4

O R D E R

This writ petition has been filed challenging the eviction order dated 10.02.2025 passed by the second respondent and consequently, to forbear the respondents 3 and 4 from evicting the petitioner from the land in Survey No. 539/4, Ramapuram Village, Agastheeswaram Taluk, Kanniyakumari District.

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2. The respondents 3 and 4 initiated proceedings under Section 78 of the Hindu Religious and Charitable Endowment Act for evicting the writ petitioners herein. Subsequently, the respondents 3 and 4 filed an application under Section 78(1)(a) of the HR & CE Act, before the second respondent for the relief of eviction and compensation and the same was taken on file by the second respondent in M.P.No.205 of 2024. On 10.02.2024, an *ex-parte* impugned order was passed by the second respondent. Challenging the same, the present writ petition has been filed by the petitioner.

3. In response, the learned Additional Government Pleader, appearing on behalf of the respondents 1 and 2, submitted that the petitioner has an adequate and effective alternate remedy under Section 21 of the TN HR & CE Act. The learned Additional Government Pleader further submitted that any person aggrieved by the proceedings has the right to file an appeal before the appellate authority.

4. Heard the learned counsel for the parties and perused the materials available on record.

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5. Upon considering the submissions made by both parties, it is observed that the petitioner has an effective alternative remedy available under Section 21 of the HR & CE Act, which provides for an appeal against the impugned proceedings dated 10.02.2025 before the appellate authority. It is a settled principle of law that when an alternate remedy is provided by statute, a party must exhaust such remedy before seeking judicial intervention through a writ petition.

6. Accordingly, the Writ Petition stands disposed of, granting liberty to the petitioner to approach the appellate authority within a period of two weeks from the date of receipt of a copy of this order. In case, any such appeal is filed by the petitioner within a period of two weeks from today, the appellate authority shall entertain the appeal and pass appropriate orders on its own merits and in accordance with law within three months thereafter, without reference to the period of limitation. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

21.03.2025

Index : Yes / No
Internet : Yes / No

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VIVEK KUMAR SINGH, J.

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