



W.P.(MD) Nos.17669 and 17670 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.06.2025

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THE HON'BLE MR.JUSTICE C. SARAVANAN

W.P.(MD) No.17669 and 17670 of 2025

and

W.M.P.(MD) Nos.13503 and 13507 of 2025

P.Boomathy

... Petitioner
in both W.Ps.

Vs.

- 1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Nungambakkam High Road, Chennai-600 034.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Tiruppur.
- 3.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Karur.
- 4.The Executive Officer,
Sri Balasubramaniya Temple,
Kathapparai Village,
Vennamalai Post,
Karur Taluk, Karur District.

... Respondents
in both W.Ps.



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Prayer in both W.Ps.: Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records in connection with the eviction orders passed by the 2nd respondent in his proceedings Miscellaneous Petition Nos.45/2022/A3 and 46/2022/A3 dated 04.06.2025 signed on 19.06.2025 and quash the same.

For Petitioner	:	Mr.D.Selvanayagam
For RR1 to 3	:	Mr.SS.Madhavan Additional Government Pleader
For R4	:	Mr.P.Athimoola Pandian Standing Counsel

COMMON ORDER

The petitioner challenges the impugned orders passed by the second respondent Joint Commissioner on 04.06.2025 in Miscellaneous Petition Nos.45/2022/A3 and 46/2022/A3 under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959.

2. There is a chequered history. The petitioner claims that the petitioner has purchased the subject property in the year 2010 by a registered



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sale deed and that the petitioner's predecessors were in possession of the property since 1950. It is the further case of the petitioner that the property was not a service inam for the respondents to exercise right over the same. It is however noticed that the fourth respondent-temple had approached the Civil Court *viz.*, the Principal District Court at Karur in O.S.No.239 of 2021 for a declaration that the suit property in S.No.580/2B measuring a total extent of 5.23 acres was that of the fourth respondent. It appears that a dispute arose about 1.11 acres, out of 5.23 acres of land, which was acquired by the Indian Railways and dispute arose as to whom the compensation was to be paid. As on date, the suit has been decreed in favour of the fourth respondent-temple on 28.08.2024. Aggrieved by the same, the petitioner has approached a Division Bench of this Court in A.S.SR (MD) No.8032 of 2025. Thereafter, the petitioner appears to have re-presented the appeal suit against the judgment and decree dated 28.08.2024 *vide* C.M.P.(MD) No.9762 of 2025 which came up before the Division Bench today. Notice has been ordered and the report of the Tahsildar is awaited in the said proceedings before the petitioner is able to successfully challenge the order passed by the Principal District Court in O.S.No.239 of 2021. In the background also, there is a writ



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petition filed by the petitioner and one R.Ramanathan in W.P.(MD) Nos. 13698 and 13699 of 2020, wherein the petitioner and the said R.Ramanathan had prayed for a request under Section 34 of the Tamil Nadu Hindu Religious and Charitable Endowments Act in the light of the order passed in W.P.(MD) No.64 of 2018, dated 23.10.2019 on the basis of the petitioner and the said R.Ramanathan's representation dated 16.09.2020. The said writ petition was disposed of by an order dated 01.10.2020. The order dated 01.10.2020 reads as under:

“Heard the learned counsel on either side.

2.The petitioners have applied to the authorities for considering their cases under Section 34 of the Hindu Religious and Charitable Endowment Act.

3.The learned counsel appearing for the petitioners draws my attention to the order dated 23.10.2019 in W.P. (MD)No.64 of 2018. Paragraph Nos.34 to 39 of the said order reads as follows:-

“34.The very object the lands that have been donated by the devotees has been defeated in this case. It is not only in this temple at Karur and it is almost a common affair in all the temples under the control of the HR & CE Department. The very object of establishing the HR & CE Department is to maintain the endowments, but the case in hand expose the manner in which the properties are protected. Under Section 29 of the HR & CE Act, the religious institution has to prepare and maintain the registers, but it appears the registers are not



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maintained properly. The HR & CE Department alone cannot be blamed and it appears the Revenue Officials have also colluded with the encroachers and have created the records in favour of the encroachers.

35.It is not in dispute that the private respondents are in long and absolute possession over the aforesaid properties and it is the case of the petitioner as well as the 8th respondent that the 8th respondent temple alone is the title holder and all the lands referred in this writ petition belonged to the temple and are service inam lands.

36.The judgments cited above are squarely applicable to the facts in case on hand and by applying the decisions cited supra and also in view of the stand taken by the temple and the District Collector, Karur, this Court passes the following order:

1.Insofar as the first and second categories are concerned, the revenue records are in the name of the temple and if there are any encroachments the temple administration has to initiate appropriate proceedings under Section 78 of HR & CE Act and all the encroachments shall be removed within a period of six months from the date of receipt of a copy of this order.

2.Insofar as the third category is concerned, wherein settlement pattas were given in the name of the individuals, the temple has to work out its remedies by filing a suit within a period of three months from the date of receipt of the copy of the order and the same has to be disposed of by the concerned Court within a period of one year thereof. The fourth respondent as well as the Commissioner, Archives and Historical Research Department shall



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provide all relevant records of the lands in issue to the HR & CE Department within two months from the date of receipt of copy of this order enabling them to initiate a suit as directed.

3.Insofar as the fourth category is concerned the revenue records have been altered to the name of the individuals during UDR, and it is now reported that the DRO, after due enquiry, has passed orders restoring pattas to the temple and therefore, the temple authorities have to initiate proceedings under Section 78 of HR & CE Act and take further action. If the parties are aggrieved, it is for them to challenge the same, in the manner known to law, by approaching appropriate forum and in any event, if any appeal is filed, the same shall be decided within a period of six months thereof.

4.Insofar as the fifth category is concerned, the revenue records have been altered into the name of the individuals after UDR and now it is reported that the RDO has conducted an enquiry and restored the pattas in the name of the temple and therefore, the temple is at liberty to restore their properties by initiating proceedings under Section 78 of HR & CE Act and take further action. If anybody is aggrieved by the order of the RDO, it is open to them to challenge the same before the competent authority, and if any such appeal is filed, the same shall be disposed by the concerned forum on merits within a period of six months from thereof.

37.With the above observation the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.”

4.The learned Special Government Pleader appearing for the Hindu Religious and Charitable Endowment Department as well as the learned Standing Counsel



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appearing for the Temple would point out that the proceedings under Section 78 of the said Act have already been taken.

5.I must clarify that this Court has not issued any positive mandate as such. The Court is only calling upon the respondents 1 and 2 to consider the petition mentioned representations in accordance with law. If the petitioners are treated as tenants under the Temple, then there cannot be any objection. Therefore, leaving the matter entirely to the discretion of the respondents 1 and 2, these Writ Petitions are disposed of. No costs.”

3. The above stand of the petitioner along with R.Ramanathan in W.P.(MD) Nos.13698 and 13699 of 2020 indicates that the petitioner has expressly admitted that the fourth respondent is the owner of the land. Therefore, it is inconceivable as to how the petitioner can take a contra stand now stating that the petitioner is the owner of the land pursuant to a sale deed executed in favour of the petitioner in the year 2019 or that the land was in possession of the petitioner's predecessors under various sale deeds since 1950.

4. The argument of the petitioner that the fourth respondent has to invoke the power of the execution Court under Order 21 read with Section 38 of the Code of Civil Procedure cannot be countenanced, as the faster remedy



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available to the fourth respondent is by approaching the second respondent under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act.

5. It is noticed that under similar circumstances, during vacation, this Court in W.P.(MD) Nos.15247 and 15248 of 2025 filed by C.Thangavelu and M.Jothi in respect of land in S.No.235 at Kathapparai Village, Vennamalai Post, Karur Taluk, order was passed directing the petitioners therein to pay a sum of Rs.10,000/- per month.

6. It is submitted by the learned counsel for the petitioner that the dispute there pertains to commercial shops purportedly owned by the fourth respondent. In this case, admittedly the petitioner is in possession of land over an acre out of 4.12 acres after the part land was acquired by the Railways for expansion. It is the case of the petitioner that the petitioner is in possession of the property and is carrying on agricultural activities and has put up a small house.



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7. Considering the overall facts and circumstances of the case, I am of the view that these writ petitions are not maintainable. However, to balance the interest of the petitioner and the fourth respondent, following the directions in W.P.(MD) Nos.15247 and 15248 of 2025, dated 05.06.2025, there shall be a direction to the petitioner to pay a sum of Rs.5,000/- per month. The said sum shall be paid by the petitioner for the month of July on or before 5th July, 2025 and from September, 2025 the same shall be paid on the 1st day of every calendar month. The petitioner is also directed to make a deposit of a sum of Rs.1,00,000/- (One Lakh Rupees only) as security deposit within a period of one month from the date of receipt of a copy of this order. The petitioner shall endeavour to have the appeal suit numbered as expeditiously as possible within a period of six months from the date of receipt of a copy of this order. In any case, the petitioner fails to number this appeal suit and also fails to file an application under Section 21 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, the respondents are at liberty to initiate further proceedings to evict the petitioner from the property.



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8. These Writ Petitions stand disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

30.06.2025

NCC : Yes/No

Index : Yes/No

Internet : Yes

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