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W.A.(MD)NO.1329 OF 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.03.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

W.A.(MD)No.1329 of 2021 AND

C.M.P.(MD)No.5538 of 2021

S.Natarajan

... Appellant / Petitioner

Vs.

1. The Secretary to the Government,
Hindu Religious and Charitable Endowment Department,
Secretariat, Chennai.
2. The Commissioner,
Hindu Religious and Charitable Endowment Department,
Chennai – 34.
3. The Joint Commissioner and Executive Officer,
Arulmigu Subramaniaswamy Thirukkovil,
Tiruchendur. ... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to allow the writ appeal and set aside the order dated 04.06.2018 in W.P.(MD)No.7027 of 2018 on the file of this Court.

For Appellant : Mr.M.S.Jeyakarthik
For R-1 & R-2 : Mr.K.S.Selvaganesan,
Additional Government Pleader.
For R-3 : Mr.M.Muthugeethaiyan

* * *

**J U D G M E N T**

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(Order of the Court was delivered by G.R.SWAMINATHAN, J.)

The appellant herein filed W.P.(MD)No.7027 of 2018 challenging the notice issued by the temple management calling for his eviction. The learned single Judge vide order dated 04.06.2018 dismissed the writ petition. Challenging the same, this writ appeal has been filed.

2. It is not in dispute that the issue raised in the writ appeal is covered by the order of the Hon'ble Supreme Court dated 08.04.2019 rendered in Civil Appeal Nos.3461-505 of 2019 etc. batch (***S. Kumar V. Commissioner and Others (2019) 5 SCC 244***). All the notices issued by the temple authorities were based on the circular issued by the Commissioner, HR&CE Department, Nungambakkam, Chennai. The said circular was set aside by the Hon'ble Supreme Court in the following terms:-

“**11.** In our considered opinion, the issue raised in these appeals is governed by the provisions of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (22 of 1959) (for short “the 1959 Act”). Chapter VII of the



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1959 Act deals with the cases of encroachment on the land belonging to religious institutions. This chapter consists of Sections 77 to 85.

12. Section 77 of the 1959 Act deals with transfer of lands appurtenant to or adjoining religious institutions prohibited except in special cases. Section 78 deals with encroachment by persons on land or building belonging to charitable or religious institutions or endowments and the eviction of encroachers. Section 79 deals with mode of eviction on failure of removal of the encroachment as directed by the Joint Commissioner. Section 79-A deals with encroachment by groups of persons on land belonging to charitable religious institutions and their eviction. Section 79-B deals with penalty for offences in connection with encroachment. Section 79-C deals with recovery of moneys due to religious institution, as arrears of land revenue.

13. Section 80 deals with eviction of lessees, licensees or mortgagees with possession in certain cases. Section 81 provides for an appeal against Joint Commissioner or the orders of Deputy Commissioner passed under Section 80. Section 82 provides for payment of



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compensation. Section 83 deals with constitution of the Tribunal. Section 84 deals with suits against the award. Section 85 provides for protection of action taken under Chapter VII of the 1959 Act.

14. As mentioned above, the controversy, which is the subject-matter of these appeals, is governed by the provisions of the 1959 Act. It is not in dispute that the respondents did not resort to the remedies provided to them under the Act against any of the appellants. In other words, it is not in dispute that the action taken by the respondents, which was impugned by the appellants in the writ petitions before the High Court, was not taken under the 1959 Act.

15. It is for this reason, we are inclined to allow these appeals, set aside the impugned order and grant liberty to the respondents to take recourse to the remedies provided to them against the appellants individually in relation to the controversy raised by them in these proceedings.

16. Needless to say, we have not gone into the merits of the claim raised by the appellants whether individually or/and severally. The respondents will, therefore, be at liberty to



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proceed in the matter in question against the appellants individually strictly in accordance with law uninfluenced by any observation made by this Court.

17. In view of the foregoing discussion, the appeals succeed and are accordingly allowed. The impugned order is set aside.”

3. Therefore, respectfully applying the aforesaid decision, this writ appeal has to be allowed. The notice impugned in the writ petition is set aside. The temple management is at liberty to evict the appellant herein strictly in accordance with law and the relevant statutory provisions. With the aforesaid liberty to the respondents, this writ appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.SWAMINATHAN, J.) & (M.JOTHIRAMAN, J.)
25th March 2025

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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To:

1. The Secretary to the Government,
Hindu Religious and Charitable Endowment Department,
Secretariat, Chennai.
2. The Commissioner,
Hindu Religious and Charitable Endowment Department,
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