



W.P.(MD)No.24063 of 2025 & batch

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 09.09.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.24063, 24064, 24065, 24066, 24067, 24068,
24069, 24146, 24147, 24148, 24149, 24150, 24151,
24152, 24153, 24435, 24436, 24437 and 24438 of 2025
and

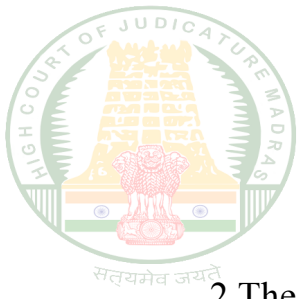
W.M.P.(MD)Nos.18865, 18866, 18867, 18870, 18873, 18874,
18893, 18895, 18896, 18900, 18901, 18902, 18882,
18883, 18884, 18886, 18887, 18888, 18872, 18875,
18876, 18945, 18949, 18959, 18952, 18950, 18948,
18944, 18962, 18956, 19172, 19174, 19179, 19182,
19177, 19178, 19181 and 19184 of 2025

W.P.(MD)Nos.24063 to 24069 of 2025:-

N.Janaki Ammal	... Petitioner in W.P.(MD)No.24063 of 2025
E.Mariappan	... Petitioner in W.P.(MD)No.24064 of 2025
A.Krishnasamy	... Petitioner in W.P.(MD)No.24065 of 2025
S.Tharmaraj	... Petitioner in W.P.(MD)No.24066 of 2025
P.S.K.Maheswaran	... Petitioner in W.P.(MD)No.24067 of 2025
S.Senthil Murugan	... Petitioner in W.P.(MD)No.24068 of 2025
E.Mariappan	... Petitioner in W.P.(MD)No.24069 of 2025

Vs.

1.The Commissioner,
O/o. Hindu Religious and Charitable
Endowments Department,
Chennai - 600 034.



W.P.(MD)No.24063 of 2025 & batch

2.The Joint Commissioner,
Hindu Religious and Charitable Endowments,
Opposite Oriental Bank,
Trivandrum High Road,
Palayamkottai,
Tirunelveli - 627 002.

3.The Executive Officer,
Shri Nelliappar Temple,
162, East Car Street,
Tirunelveli - 627 006.

... Respondents in W.P.(MD)Nos.24063 to
24069 of 2025

Prayer in W.P.(MD)No.24063 of 2025 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.42-5/2025/Aa2 dated 25.08.2025 on the file of the respondent No.3 and quash the same as illegal and consequently forbear the respondents No.1 to 3 from evicting petitioner from his shop in Shop No.127 Keezha Ratha Veethi, Tirunelveli Town, Tirunelveli District without following due process of law within the time frame stipulated by this Court.

Prayer in W.P.(MD)No.24064 of 2025 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.42-10/2025/Aa2 dated 25.08.2025 on the file of the respondent No.3 and quash the same as illegal and



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consequently forbear the respondents No.1 to 3 from evicting petitioner from his shop in Shop No.129 Keezha Ratha Veethi, Tirunelveli Town, Tirunelveli District without following due process of law within the time frame stipulated by this Court.

Prayer in W.P.(MD)No.24065 of 2025 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.42-4/2025/Aa2 dated 25.08.2025 on the file of the respondent No.3 and quash the same as illegal and consequently forbear the respondents No.1 to 3 from evicting petitioner from his shop in Shop No.126 Keezha Ratha Veethi, Tirunelveli Town, Tirunelveli District without following due process of law within the time frame stipulated by this Court.

Prayer in W.P.(MD)No.24066 of 2025 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.42-2/2025/Aa2 dated 25.08.2025 on the file of the respondent No.3 and quash the same as illegal and consequently forbear the respondents No.1 to 3 from evicting petitioner from his shop in Shop No.124 Keezha Ratha Veethi, Tirunelveli Town, Tirunelveli District without following due process of law within the time frame stipulated by this Court.

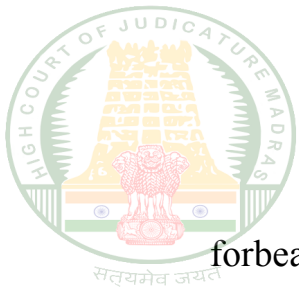


W.P.(MD)No.24063 of 2025 & batch

Prayer in W.P.(MD)No.24067 of 2025 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.42-1/2025/Aa2 dated 25.08.2025 on the file of the respondent No.3 and quash the same as illegal and consequently forbear the respondents No.1 to 3 from evicting petitioner from his shop in Shop No.123 Keezha Ratha Veethi, Tirunelveli Town, Tirunelveli District without following due process of law within the time frame stipulated by this Court.

Prayer in W.P.(MD)No.24068 of 2025 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.42-21/2025/Aa2 dated 25.08.2025 on the file of the respondent No.3 and quash the same as illegal and consequently forbear the respondents No.1 to 3 from evicting petitioner from his shop in Shop No.122 Keezha Ratha Veethi, Tirunelveli Town, Tirunelveli District without following due process of law within the time frame stipulated by this Court.

Prayer in W.P.(MD)No.24069 of 2025 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.42-9/2025/Aa2 dated 25.08.2025 on the file of the respondent No.3 and quash the same as illegal and consequently



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forbear the respondents No.1 to 3 from evicting petitioner from his shop in Shop No.129 Keezha Ratha Veethi, Tirunelveli Town, Tirunelveli District without following due process of law within the time frame stipulated by this Court.

(In W.P.(MD)Nos.24063 to 24069 of 2025)

For Petitioner : Mr.T.Lajapathi Roy, Senior Counsel,
For M/s.Roy and Roy Associates.

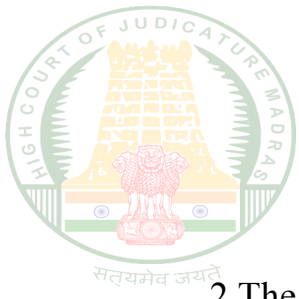
For Respondents : Mr.P.Subbaraj,
Spl. Government Pleader for R1 & R2.
Mr.M.Karthikeya Venkatachalapathy,
For Mr.S.Madhavan for R3.

W.P.(MD)Nos.24146 to 24153 of 2025:-

Thirunavukkarasu	... Petitioner in W.P.(MD)No.24146 of 2025
Murugan	... Petitioner in W.P.(MD)No.24147 of 2025
Sorna Venkateswaran	... Petitioner in W.P.(MD)No.24148 of 2025
Shanmugavel	... Petitioner in W.P.(MD)No.24149 of 2025
Senamuna Bahurutheen	... Petitioner in W.P.(MD)No.24150 of 2025
Ganesan	... Petitioner in W.P.(MD)No.24151 of 2025
Sankar Ganesh	... Petitioner in W.P.(MD)No.24152 of 2025
Murugan	... Petitioner in W.P.(MD)No.24153 of 2025

Vs.

1.The Executive Officer,
Arulmighu Nellaiyappar Arultharum
Gandhimathi Amman Thirukoil,
Tirunelveli.



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2.The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
Tirunelveli District.

... Respondents in W.P.(MD)Nos.12146 to
24153 of 2025

Prayer in W.P.(MD)No.24146 of 2025 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned order in Na.Ka.No.42-6/2025/Aa2 dated 25.08.2025 on the file of the 1st respondent and quash the same.

Prayer in W.P.(MD)No.24147 of 2025 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned order in Na.Ka.No.42-7/2025/Aa2 dated 25.08.2025 on the file of the 1st respondent and quash the same.

Prayer in W.P.(MD)No.24148 of 2025 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned order in Na.Ka.No.42-16/2025/Aa2 dated 25.08.2025 on the file of the 1st respondent and quash the same.

Prayer in W.P.(MD)No.24149 of 2025 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of



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Certiorari, to call for the records pertaining to the impugned order in Na.Ka.No.42-8/2025/Aa2 dated 25.08.2025 on the file of the 1st respondent and quash the same.

Prayer in W.P.(MD)No.24150 of 2025 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned order in Na.Ka.No.42-15/2025/Aa2 dated 25.08.2025 on the file of the 1st respondent and quash the same.

Prayer in W.P.(MD)No.24151 of 2025 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned order in Na.Ka.No.42-12/2025/Aa2 dated 25.08.2025 on the file of the 1st respondent and quash the same.

Prayer in W.P.(MD)No.24152 of 2025 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned order in Na.Ka.No.42-11/2025/Aa2 dated 25.08.2025 on the file of the 1st respondent and quash the same.

Prayer in W.P.(MD)No.24153 of 2025 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned order in



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Na.Ka.No.42-13/2025/Aa2 dated 25.08.2025 on the file of the
1st respondent and quash the same.

(In W.P.(MD)Nos.12146 to 24153 of 2025)

For Petitioner : Mr.G.Prabhu Rajadurai,
For Ms.A.Banumathy.

For Respondents : Mr.P.Subbaraj,
Spl. Government Pleader for R2.
Mr.M.Karthikeya Venkatachalapathy,
For Mr.S.Madhavan for R1.

W.P.(MD)Nos.24435 to 24438 of 2025:-

S.Karuppasamy ... Petitioner in W.P.(MD)No.24435 of 2025
E.Natarajakumar ... Petitioner in W.P.(MD)No.24436 of 2025
S.Karuppasamy ... Petitioner in W.P.(MD)No.24437 of 2025
S.Karuppasamy ... Petitioner in W.P.(MD)No.24438 of 2025

Vs.

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

2.The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
Tirunelveli District.

3.The Executive Officer,
Arulmighu Nellaiyappar Arultharum
Gandhimathi Amman Thirukoil,
Tirunelveli District. ... Respondents in W.P.(MD)Nos.24435 to
24438 of 2025



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Prayer in W.P.(MD)No.24435 of 2025 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned notice dated 25.08.2025 in Na.Ka.No.42-19/2025/Aa2 issued by the 3rd respondent, quash the same as illegal.

Prayer in W.P.(MD)No.24436 of 2025 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned notice dated 25.08.2025 in Na.Ka.No.42-20/2025/Aa2 issued by the 3rd respondent, quash the same as illegal.

Prayer in W.P.(MD)No.24437 of 2025 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned notice dated 25.08.2025 in Na.Ka.No.42-17/2025/Aa2 issued by the 3rd respondent, quash the same as illegal.

Prayer in W.P.(MD)No.24438 of 2025 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned notice dated 25.08.2025 in Na.Ka.No.42-18/2025/Aa2 issued by the 3rd respondent, quash the same as illegal.



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(In W.P.(MD)Nos.24435 to 24438 of 2025)

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For Petitioner : Mr.B.Prasanna Vinoth

For Respondents : Mr.P.Subbaraj,
Spl. Government Pleader for R1 & R2.
Mr.M.Karthikeya Venkatachalapathy,
For Mr.S.Madhavan for R3.

COMMON ORDER

Heard both sides.

2.The writ petitioners are small time shopkeepers. They have been permitted by the respondent / temple management to run their petty business in the spaces belonging to the temple. Vide notices dated 25.08.2025, the Executive Officer of the temple had called upon the writ petitioners to vacate and surrender vacant possession within a period of fifteen days. The learned counsel for the temple submitted that the prime reason for calling upon the writ petitioners herein to vacate is that the architectural and aesthetic duty of the mantapam is being marred. The said notices have been put to challenge in these writ petitions.

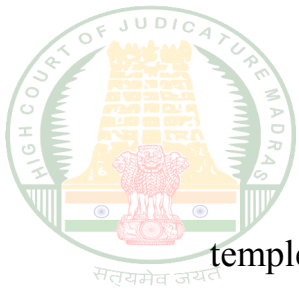


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3.Encroachers of temple properties can be evicted under the provisions set out in Chapter VII of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. Sections 78 and 80 are particularly relevant. In either case, application has to be moved before the jurisdictional Joint Commissioner who alone can pass the eviction order. The Executive Officer of the temple does not have the jurisdiction to pass an enforceable order calling upon the occupants to hand over possession. On this sole ground, the impugned orders are quashed.

4.It is seen that the impugned communications are more a knee-jerk reaction to the institution of W.P.(MD)No.23177 of 2025 filed by one K.Balasubrahmaniam. The prayer in the writ petition was to declare Sree Nellaiyappar Temple as a monument of national importance under Section 4 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958. In fact, the said Balasubrahmaniam wanted Nellaiyappar Temple to be taken over.

5.The writ petition was listed for admission on 25.08.2025. A complaint was made that shops have been allowed to run inside the

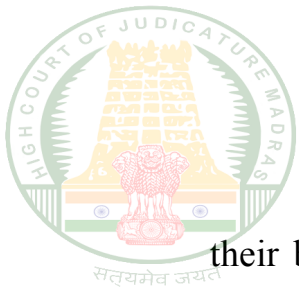


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temple premises. The Hon'ble Division Bench took a serious view and *suo motu* impleaded the Joint Commissioner, Hindu Religious and Charitable Endowments, Palayamkottai and directed him to appear in person on the very next day at 10.30 am and offer his explanation. It is in this background, on the evening of 25.08.2025, the impugned notices came to be issued. Taking note of this development, the writ petition was disposed of in the following terms:-

“11.Since the Joint Commissioner of HR & CE Department has already initiated action under Sections 77, 80 and under other relevant provisions to evict the occupants inside the temple premises and mandapam, no further adjudication is required. However, the authorities competent of HR & CE Department are directed to evict all the occupants from the temple premises and initiate all appropriate steps to protect the monuments, architectures and ancient carvings etc., in accordance with the provisions of the Act and Rules. The entire exercise is directed to be completed by affording opportunity to the occupants, within a period of twelve (12) weeks from the date of receipt of a copy of this order.”

6.The writ petitioners lament that they were not made parties to the aforesaid writ petition and that an adverse order was obtained behind



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their back. They point out that while Section 77(1) of the Act forbids lease or granting license for the occupation of any space within or outside the prakarams, mantapams, Courtyards or corridors of the religious institution, there is a proviso which may come to the rescue of the writ petitioners. The proviso reads as under:-

“Provided that nothing contained in this sub-section shall apply to the leasing or licensing or any such land or space for the purpose of providing amenities to pilgrims or of vending flowers or other articles used for worship ...”

7.The grievance of the writ petitioner can be summarized as follows:

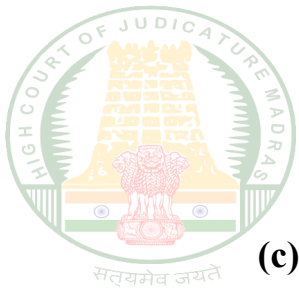
(a) If only they had been impleaded as respondents, they would have convinced the Hon'ble Division Bench that their case would fall within the proviso and that the expression “amenities to pilgrims” may have to be expansively construed. Secondly, if the case falls under Section 80 of the Act, they would have pointed out that as per Section 80(2) of the Act, it is the Joint Commissioner or the Deputy Commissioner, as the case may be, who must be satisfied that the artistic appearance or the religious atmosphere of the religious institution has



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been marred. The decision of the said authority is no doubt subject to judicial review. But it is he who must be satisfied in the first instance. If the writ Court has already expressed its view in the matter, the procedure before the authority would only be an empty formality. It is true that the Hon'ble Division Bench had stated that the writ petitioners must be given opportunity. But a reading of the order as a whole would lead any one to the conclusion that it was not an opportunity in the real sense of the term. The conclusion is foregone. It is more a case of going through motions. The writ petitioners characterized the decision of the Hon'ble Division Bench as a nullity.

(b) The writ petition was filed by one Balasubrahmaniyam. The respondents in the writ petition did not include any of the affected parties. The writ petitioners herein were not impleaded. W.P.(MD)No.23177 of 2025 suffered from the fatal vice of non-joinder of necessary parties. The petitioners herein were not put on notice. They were not heard. No opportunity was afforded to them to place their case before the Court. In short, there was an egregious breach of the principles of natural justice.



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(c) The Constitution Bench of the Supreme Court in the decision reported in *Udit Narain Singh Malpaharia v. Additional Member, Board of Revenue*, [AIR 1963 SC 786](#) held that any person whose interest is affected will be a necessary party and that any order made without hearing the affected parties would be void. In *State of Orissa v. Binapani Dei*, [AIR 1967 SC 1269](#), it was held that a decision which contravenes the rules of natural justice is a nullity. Following the said decisions, a Full Bench of the Madras High Court in *R.S. Kalyanasundaram v. The Commissioner, HR&CE, Chennai [(2022) 5 CTC 145* etc., held that a judicial order passed in violation of the principles of natural justice is nullity. A Division Bench of the Madurai Bench of the Madras High Court had passed an order adverse to the interests of a class of people known as Thirisuthanthirars working in Arulmighu Subramaniya Swamy Temple, Thiruchendur. The directions were set aside by the Full Bench on the ground mentioned above. An order passed in a public interest litigation operates in rem and therefore, it is imperative that without hearing the stakeholders, orders prejudicial to their interest should not be passed. The affected parties should be impleaded at least in a representative capacity and failure to do so would



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go to the root of the matter. In the decision reported in **(2009) 4 SCC**

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299 (Rajasthan SRTC v. Bal Mukund Bairwa), it was held as follows:

“35. Any order passed in violation of the principles of natural justice save and except certain contingencies of cases, would be a nullity. In A.R. Antulay, (1988) 2 SCC 602, this Court held:

‘55..... No prejudice need be proved for enforcing the fundamental rights. Violation of a fundamental right itself renders the impugned action void. So also the violation of the principles of natural justice renders the act a nullity.’”

(d) Even a judicial order can be held as nullity if the principles of natural justice have not been complied with. If an order is nullity, it has no legal consequence. It cannot be enforced. The defense of nullity can be set up whenever such decree sought to be enforced. Since the defect is incurable, waiver or laches cannot be put against the party raising the plea of nullity. It can be challenged at any stage, even at the stage of execution or collateral proceedings **(2004) 8 SCC 706**. The order dated 26.08.2025 made in W.P.(MD)No.23177 of 2025 would fall under such a category.



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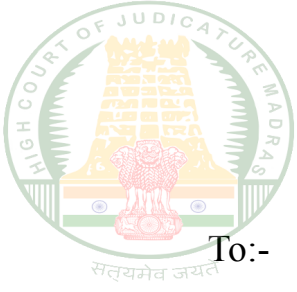
8.I carefully considered the aforesaid submissions. But I can only mull within. After all I am sitting in a Single Bench. Once bitten, twice shy. An order passed by Hon'ble Division Bench in breach of the principles of natural justice is a nullity. But a Single Judge cannot say so. I said so once and I got a rap on my knuckles. I was also given lessons in judicial discipline by the eminences sitting in the Division Bench. One always learns from experience. I have become mature. Better sense now prevails and my response to the writ petitioners' legal submissions is one of silence.

9.These writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

09.09.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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Issue order copy on 12.09.2025.



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To:-

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- 1.The Commissioner,
O/o. Hindu Religious and Charitable
Endowments Department,
Chennai - 600 034.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Endowments,
Opposite Oriental Bank,
Trivandrum High Road,
Palayamkottai,
Tirunelveli - 627 002.
- 3.The Executive Officer,
Arulmighu Nellaiyappar Arultharum
Gandhimathi Amman Thirukoil,
Tirunelveli District.



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W.P(MD)No.24063 of 2025 & batch

G.R.SWAMINATHAN, J.

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