



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-02-2026

CORAM

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.6584 of 2026

AND

W.M.P.NO.7156 OF 2026

Mahalingam

S/o. Late. R.V.Krishnan,

No. 389 SKC Road, Opp. to

Jaganadhapuram Colony ARCh,

Surampatti, Erode 638009 also at

No.278 Easwaran Kovil Street,

Erode Town and District 638 001.

... Petitioner

Vs

**1. The Joint Commissioner Of
Hindu Religious and Charitable
Endowment Board, Erode 638 011**

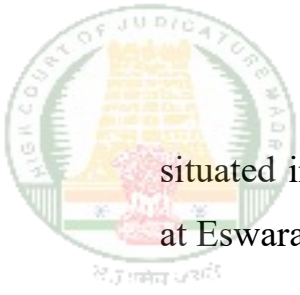
**2.The Assistant Commissioner of
Hindu Religious and Charitable
Endowment Board, Erode 638 011**

**3.The Executive Officer,
Arulmigu Sri Aarudra Kabaaleeswarar
temple, Erode Fort,
Eswaran Kovil Street, Erode 638 001.**

**4.The Commissioner,
Erode City Municipal Corporation,
Erode 638 001.**

... Respondents

PRAYER: Writ Petition has been filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in Miscellaneous petition No.01/2026/Aa1, dated 05.02.2026 and quash the same and consequently direct the Respondents Nos.1 to 3 not to interfere with the petitioner Tea shop running in the name of Singaram Tea Shop



situated in T.S.No.143, Block No. 32, Ward No.C measuring 238 sq.ft situated at Eswaran Kovil Street, Erode Town and District 638 004.

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For Petitioner: Mr.K.Ponraj

For Respondents: Mr.N.R.R.Arun Natarajan,
Special Government Pleader,
for R1 to R3 (HR & CE)

Mr.M.Raja Mathivanan, for R4
Erode Corporation

ORDER

The writ petition is filed challenging the proceedings dated 05.02.2026 which is a notice issued in M.P.No.1 of 2026 thereby initiating eviction proceedings under Section 78 of the HR&CE Act as against the petitioner.

2. Upon hearing the Learned Counsel for the petitioner and perusing material records of the case, it is the case of the petitioner that the petitioner was leased out the vacant site by the Erode Municipality, the 4th respondent herein, with effect from 18.07.1957. Thereafter, when the petitioner's father was unduly sought to be evicted otherwise than by due process of law, a suit in O.S.No.1978 of 1969 was filed. The suit was originally decreed, however, it was dismissed in A.S.No.162 of 1972. Subsequently, the petitioner's father filed S.A.No.129 of 1973 and this Court, by judgment and decree dated 18.09.1975, restored the decree of the trial Court, thereby it is declared that the petitioner's father was a



tenant under the 4th respondent Municipality and consequently, a permanent injunction was also issued in any manner interfering with the possession or evicting otherwise than by due process of law. Thereafter, when the petitioner's father passed away and the petitioner continued to be in possession. When the very same Municipality tried to interfere, the petitioner filed O.S.No.287 of 2001 again for a permanent injunction not to dispossess him otherwise than by due process of law, which was also decreed on 16.10.2001 and the petitioner continues to be in possession and enjoyment of the same.

3. As far as the lease rent is concerned, even though the petitioner tendered the same to the Municipality, the Municipal authorities are wilfully not receiving the same from the petitioner. Under the circumstances, suddenly now the impugned notice is issued as if the property belongs to the temple. Accordingly to the petitioner, the temple is not the owner of the property and already the Civil Court has decided the issue. There is no document whatsoever in favour of the Temple. The one which claimed is also with reference to S.No.143 in Block No.31 and not Block No.32, in which the petitioner's property is situated. Therefore, without any iota of document, whatsoever, the proceedings are initiated. Even if the petitioner files a civil suit, the interim order will not be granted and the authorities will proceed with the eviction and therefore, the petitioner is in grave peril and therefore, the petitioner has



approached this Court at this stage.

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4. Per contra, the Learned Special Government Pleader appearing on behalf of the respondents 1 to 3 at the admission stage, would submit that the temple is claiming ownership of the property on the base of the revenue records. As far as Survey No.143, Block No.32 is concerned, it is the name of the Temple that is mentioned in the Town Survey Register as “Eswaran Kovil.” Therefore, the Erode Municipality is not the owner of the property but it is only the temple which is the owner of the property. Finding that the petitioner is an encroacher without any lease or payment of rent, the notice has been issued. If the petitioner sets up any rival title or claims that he is not an encroacher of the temple property, the same stand can be taken by him in the proceedings and the same will be duly considered.

5. I considered the rival submissions made on either side and perused the material records of the case.

6. The first contention of the petitioner to approach this Court at this stage is that already the issue has been decided by the Civil Court. It can be seen that in both suits, the temple or the HR&CE Authorities are not parties. Therefore, what is decided inter se between the petitioner and the Erode Municipality will



be binding the both of them and will not bind the temple or its authorities. If the temple authorities want to assert their title, they can assert the same independently.

7. The second submission is that, without even any application of mind, when the property of the Temple is situated only in Block No.31, the notice has been issued. It is true that in the notice dated 17.09.2018, the Special Tahsildar mentions as Ward C, Block 31, T.S.No.143; but in the Town Survey register, it is mentioned as Ward C, Block No.32 and T.S.No.143. In Column Nos.6 and 7 that the property is described as Government Poramboke and in the column No.12 that it is “Eswaran Kovil.” Therefore, the question has to be decided by a detailed enquiry either by the respondents in the said proceeding under Section 78 or if the petitioner sets up a defence of title, it will be open for the petitioner to approach the Civil Court as per the provisions made under Section 78 of the HR&CE Act. Therefore, keeping open the said liberty of the petitioner to either contend before the authorities that he is not in occupation of temple property or even to file a civil suit as per law, this writ petition cannot be entertained, as it is only a notice requesting the petitioner to appear for the enquiry and submit his explanation/documents.



8. Keeping open the aforesaid liberty of the petitioner, the writ petition stands disposed of. At this stage, it is brought to the notice of the Court that the enquiry scheduled tomorrow. If the petitioner attends the enquiry tomorrow and seeks for time to submit reply as the petitioner has been prosecuting this writ petition, sufficient time may be granted by the authorities.

There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

18-02-2026

Neutral Citation:No.
bsm

To,

1.The Joint Commissioner,
Hindu Religious and Charitable Endowment Board, Erode 638 011

2.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Board, Erode 638 011

3.The Executive Officer,
Arulmigu Sri Aarudra Kabaaleeswarar
temple, Erode Fort,
Eswaran Kovil Street,
Erode 638 001.

4.The Commissioner,
Erode City Municipal Corporation,
Erode 638 001.



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D.BHARATHA CHAKRAVARTHY, J.
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