



WEB COPY

W.A.No.2556 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE K. SURENDER

W.A.No.2556 of 2022

and

C.M.P.No.20224 of 2022

A.Mohammed Basheer
S/o.Abdul Sattar

... Appellant

vs.

1. The Commissioner,
Hindu Religious & Charitable Endowments Department,
Chennai – 600 034.
2. The Joint Commissioner,
Hindu Religious & Charitable Endowments Department,
Mayiladuthurai, Nagapattinam District.
3. The Executive Officer,
Arulmigu Illuppaiyadi Pillayar Temple,
Kumbakonam Town & Taluk,
Thanjavur District.
4. The Assistant Commissioner,
Hindu Religious & Charitable Endowments Department,
Kumbakonam Town & Taluk,
Thanjavur District.

... Respondents



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Writ Appeal filed under Clause 15 of the Letters Patent, praying to set aside the order dated 07.09.2022 passed in W.P.No.11145 of 2022 and to allow the writ appeal.

For Appellant : Mr.L.Chandra Kumar
for Mr.C.Prabakaran

For Respondents : Mr.N.R.R.Arun Natarajan
Special Government Pleader
(HR & CE) for R1, R2 and R4

Mr.Girissh
for Mr.M.Karthikeyan for R3

J U D G M E N T

[Judgment of the Court was made by **S. M. SUBRAMANIAM, J.,**]

The present writ appeal has been instituted challenging the writ order dated 07.09.2022 passed in W.P.No.11145 of 2022.

2. The property comprised in Town Survey No.311, situated at Hajiya Street, 1st Ward, Kumbakonam Town and Taluk, Thanjavur District, admeasuring an extent of 602 sq.ft of land belongs to the temple known as “Arulmighu Illuppaiyadi Pillayar”. One Mr.Varadarajulu Naidu appears to

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be in possession of the temple property as a tenant under the Temple. He made an attempt to claim title over the temple property and the matter went upto the High Court in S.A.No.385 of 1989, and the High Court held that the property belongs to the said Temple. Subsequently, the appellant allegedly purchased the property from the said Varadarajulu Naidu and is presently in possession of the property. Thus, the authorities of the Hindu Religious and Charitable Endowments Department {hereinafter “HR&CE Department” for the sake of brevity} initiated eviction proceedings under Section 78 of Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 {hereinafter “TNHR&CE Act” for the sake of brevity}. An order of eviction came to be passed on 29.03.2019. Against the order of eviction passed under Section 78 of TNHR&CE Act, the appellant preferred a revision petition under Section 21 of the TNHR&CE Act before the Commissioner, HR&CE Department. The Commissioner, after adjudication, rejected the revision petition on 09.03.2022. Challenging the orders passed by both the original authority as well as the Revisional Authority, the appellant filed the writ petition.

3. The learned single Judge, dismissed the writ petition and directed the official respondents to complete the proceedings against the petitioner for eviction and secure vacant possession within a period of four weeks.

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4. Mr.L.Chandra Kumar, learned counsel for the appellant would rely on the subsequent observations made by the learned single Judge that a fresh application may be submitted by the appellant for grant of lease. Pursuant to the interim order granted in the writ appeal, the appellant paid the arrears of rent and therefore, the authorities may consider the application submitted by the appellant for grant of lease. It is further contended that the appellant continues to pay the rent.

5. Admittedly, the appellant is not a lessee under the Temple. The original tenant had illegally executed a sale deed and therefore, the said sale deed would not confer any right on the appellant. The civil dispute raised between the original tenant against the temple had already ended in favour of the temple in S.A.No.385 of 1989. Thus, it is not in dispute that the temple is the absolute owner of the subject property.

6. The appellant, admittedly is neither a tenant nor in occupation with the permission of the competent authority under the HR&CE Department. The eviction proceedings were initiated under Section 78 of TNHR&CE Act and an order of eviction was passed. The revision filed by the appellant before the Commissioner is rejected on merits.

7. In view of the above factum, mere observation made by the writ Court is of no avail to the appellant since granting of lease of temple



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property must be done scrupulously in accordance with the provisions of the Act as well as the Rules framed thereunder.

8. The Temple properties are required to be protected by the competent authorities under the provisions of the TNHR&CE Act and leasing out the properties must be done by following the procedure as contemplated under the Statute and Rules in force. Once in three years a fair rent is to be fixed in view of Section 34-A of the TNHR&CE Act.

9. In the present case, the fair rent has not been paid since the appellant was an encroacher and an eviction order was passed. Therefore, it would be inappropriate for the High Court, in exercise of its powers of judicial review, to issue any direction to the authorities to grant lease. Granting of lease is a statutory power vested with the competent authorities and the same has to be exercised strictly in the manner known to law.

10. That apart, the title of the temple has already been declared by the High Court in S.A.No.385 of 1989. That being so, the appellant has no right whatsoever to claim tenancy or seek grant of lease. The appellant has not established even a semblance of any legal right and that being the factum, the writ Court had rightly formed an opinion that the appellant is liable to be evicted.

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11. The authorities are therefore, at liberty to resume the property and secure vacant possession in terms of the directions issued by the writ Court.

12. With these observations, the Writ Appeal stands dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

(S.M.S.,J.) (K.S.,J.)
09.03.2026

Index : Yes
Neutral Citation : Yes
Speaking

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**S. M. SUBRAMANIAM, J.,
and
K. SURENDER, J.,**

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