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Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-11-2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE R.RAJESH VIVEKANANTHAN

WP No. 44653 of 2026
CNR:{HCMA012582912026}
Case QR
AND
WMP Nos. 50141and 50144 OF 2026

R.Mayavan
S/o.Renganathan,
Residing at Durga Typewriting Institute,
84-A-1, Azhagappa Nagar,
3rd Cross Street, College Road,
Ariyalur Taluk and District.

..Petitioner

Vs

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

2. The Joint commissioner
   Hindu Religious and Charitable Endowments
   Department, Cuddalore- 607 001.

3. The Assistant Commissioner
   Hindu Religious and Charitable Endowments
   Department, Ariyalur.

4. The Executive Officer
   Arulmigu Alanduraiyar Kodandarama Swamy
   Temple, Ariyalur.

5. The District Collector
   Ariyalur District,Ariyalur.

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6. The Revenue Divisional Officer
   Ariyalur.

7. The Tahsildar
   Ariyalur Taluk, Ariyalur.

..Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings of the 2nd Respondent bearing Ref. No. Se.Mu.Na.Ka. 2297/ 2021/ A4, dated 28.11.2025, passed in M.P.No. 76 of 2021 under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, together with the consequential proceedings taken pursuant thereto, and quash the same as illegal, arbitrary, contrary to law and unsustainable, consequently, direct respondents 1 to 4 to restore and protect the petitioners possession and enjoyment of the subject property comprised in survey No.281/20, subsequently described as Natham New Survey No.281/20B, measuring approximately 1,442.36 square feet and covered by Natham Patta No.4382, by restoring the property, insofar as Practicable to the position prevailing prior to the consequential action taken on 27.08.2026, including restoration of the demolished compound wall, appropriate relief in respect of the removed trees, and removal of the HR and CE/Temple board placed on the property.

For Petitioner(s): Ms.D.E.Anisree Sangavi

For Respondent(s): Mr.D.Yashwanthrajan
Government Government Advocate for R 1-4
Ms.R.K.Varshini
Governmet Advoccate For R 5-7

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(Order of the Court was made by S.M.Subramaniam J.)

The final order issued under Section 78 of the HR and CE Act by the Joint Commissioner vide proceedings dated 28.11.2025 is under challenge in the present writ petition. The subject property is situated at Ward No.5, Rajaji Nagar, Ariyalur 621 713. The petitioner claims that he purchased the property under a registered sale deed dated 07.10.2020 bearing Door No.1855 of 2020. He is in possession and claiming title over the subject property.

2. Learned counsel for the petitioner would submit that the petitioner is in possession and enjoyment of the property and the Patta also has been transferred in his name. Therefore, the actions initiated under Section 78 of the HR and CE Act is untenable.

3. Learned Government Advocate would oppose by stating that the subject property belongs to temple viz., Arulmighu Alanduraiyar Kothandaramaswamy Temple, Ariyalur. Since the temple property was under encroachment, eviction proceedings are initiated under Section 78 of the HR and CE Act. After conducting enquiry and by affording opportunity to the

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petitioner, final order under Section 78 was passed by the Joint Commissioner. The temple authorities had already taken possession of the property and therefore the present writ petition is to be rejected. Admittedly, the petitioner has not preferred any statutory appeal as contemplated under Section 21 of the Act.

4. This Court has considered the rival submissions made between the parties to the lis.

5. In respect of temple properties, deity is the owner of the property and the deity being a minor, High Court has to exercise *Parens Patriae* jurisdiction to protect the interest of the minor deity. In the present case, the temple authorities identified encroachment and illegal alienation of temple properties by third parties. Thus, eviction proceedings under Section 78 of the Act was initiated. By conducting enquiry, encroachers are already evicted and as of now the temple authorities had taken possession of the property. Pertinently, the writ petitioner has instituted a civil suit for declaration in O.S.No.73 of 2026 on the file of the Principal District Judge, Ariyalur. During the pendency of the suit claiming declaratory relief, the present writ petition is not entertainable.

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6. Though the petitioner relied on the sale deed, the respondents would submit that the temple properties were illegally alienated by executing some documents. However, the respondents had not made it clear whether any criminal action has been initiated against the perpetrators of the crime, who have dealt with temple properties in an illegal manner. Whenever temple properties are alienated illegally, it constitutes an offence under criminal law and the temple authorities are expected to file a complaint for prosecuting the offenders. Any lapse on the part of the temple authorities in this regard is to be viewed seriously. Omission on the part of the authorities to perform their public duties is punishable and such authorities are liable to be subjected to departmental disciplinary proceedings.

7. In the present case, the petitioner relies on a sale deed. Learned Government Advocate would submit that such illegal alienations are null and void. Therefore, the persons who have committed such offences are to be prosecuted. The petitioner has not preferred any statutory appeal as contemplated under the Act, but instituted a civil suit for declaration. Therefore, the present writ petition is unnecessary. Parallel proceedings are not maintainable and at the first instance, the petitioner has to establish his civil right. High Court, in exercise of the powers of judicial review cannot

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adjudicate the disputed facts of civil nature and such adjudication are to be done in a trial nature proceedings. In the present case, temple authorities had already taken possession of the property and therefore the said property is to be utilised for the benefit of the temple as per the manner contemplated under the Act and Rules in force.

8. In view of the above facts and circumstances, the petitioner has not established any semblance of right for entertaining the writ petition and the same stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

(S.M.S.,J.) (R.R.V.,J.)
03-11-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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