

NON-REPORTABLE

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL Nos.3461-3505 OF 2019
(Arising out of S.L.P.(C) Nos.3007-3051 of 2019)**

S. Kumar

....Appellant(s)

VERSUS

The Commissioner & Ors.

....Respondent(s)

WITH

CIVIL APPEAL Nos.3506-3515 OF 2019
(Arising out of SLP (C) Nos.2718-2727/2019)

CIVIL APPEAL No.3516 OF 2019
(Arising out of SLP (C) No. 2984/2019)

CIVIL APPEAL Nos.3517-3538 OF 2019
(Arising out of SLP (C) Nos. 3216-3237/2019)

CIVIL APPEAL Nos.3539-3544 OF 2019
(Arising out of SLP (C) Nos.3357-3362/2019)

CIVIL APPEAL Nos.3545-3564 OF 2019
(Arising out of SLP (C) Nos.3664-3683/2019)

CIVIL APPEAL No.3565 OF 2019
(Arising out of SLP (C) No. 5144/2019)

CIVIL APPEAL No.3570 OF 2019
(Arising out of SLP (C) No.6067/2019)

CIVIL APPEAL No.3566 OF 2019
(Arising out of SLP (C) No.5146/2019)

CIVIL APPEAL No. 3567 OF 2019
(Arising out of SLP (C) No.6065/2019)

AND
CIVIL APPEAL No.3569 OF 2019
(Arising out of SLP (C) No.9167/2019)
(D.No.8470/2019)

J U D G M E N T

Abhay Manohar Sapre, J.

1. Leave granted.
2. These appeals are filed against the final judgment and order dated 01.11.2019 in WAMD No.1166-1209,1269,690-692, 686-689, 696-698, 1068, 1030-1051, 1334-1336, 1332-1333, 1340, 1119-1126, 1128-1135, 1160, 1164, 1165, 1426, 1166, 1212, 1112 & 1421 of 2018 passed by the High Court of judicature at Madras at Madurai whereby the Division Bench of the High Court dismissed the said writ appeals filed by the appellants herein.

3. A few facts need mention hereinbelow for the disposal of these appeals, which involve a short point.

4. The appellants herein are the writ petitioners and the respondents herein are the respondents of the writ petitions, out of which these appeals arise.

5. The appellants individually claim to be carrying on their small business of selling items by setting up their shops in the premises of several temples situated in various places in the districts of the State of Tamil Nadu.

6. These appellants individually claim that they have been doing their business either as licensee or/and with the permission of the Temple Authorities. In substance, the claim of the appellants is that they have been in lawful possession of the land for doing their business and, therefore, the respondents-the State Authorities and

the Temple Management cannot dispossess any of them from their individual shops without following the due process of law.

7. Since the appellants were threatened by the respondents of their dispossession from their shops by issuance of notices dated 14/16.02.2018, they felt aggrieved and filed the writ petitions in the High Court, out of which these appeals arise, against the respondents claiming *inter alia* the relief of issuance of writ of *certiorari* for quashing the notice and also for issuance of prohibitory writ restraining the respondents from taking any action of dispossessing them from their respective shops.

8. The respondents contested the writ petitions. By a common order dated 04.06.2018, the Single Judge dismissed the writ petitions giving rise to filing of the writ appeals by the writ petitioners before the Division Bench of the High Court of

Madras. By impugned order, the Division Bench dismissed the appeals and upheld the order of the Single Judge, which has given rise to filing of the present appeals by way of special leave by the unsuccessful writ petitioners in this Court.

9. So, the short question, which arises for consideration in this bunch of appeals, is whether the High Court (Single Judge - Writ Court and the Division Bench) was justified in dismissing the appellants' writ petitions and intra court appeals.

10. Heard Mr. S. Nagamuthu, learned senior counsel for the appellants and Mr. K.M. Nataraj, learned ASG and Mr. Mohan Parasaran, learned senior counsel for the respondents.

11. Having heard the learned counsel for the parties and on perusal of the record of the case, we are inclined to allow these appeals and set aside the impugned order.

12. 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 (for short “the Act, 1959). Chapter VII of the Act, 1959 deals with the cases of encroachment on the land belonging to religious institutions. This chapter consists of Sections 77 to 85.

13. Section 77 of the Act, 1959 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 institution or endowment 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. 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 Compensation. Section 83 deals with constitution of Tribunal. Section 84 deals with suits against the award. Section 85 provides for protection of action taken under Chapter VII of the Act, 1959.

14. As mentioned above, the controversy, which is the subject matter of these appeals, is governed by the provisions of the Act, 1959. 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 Act, 1959.

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 proceed in the matter in question against the appellants individually strictly

in accordance with law uninfluenced by any observations made by this Court.

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

.....J.
[ABHAY MANOHAR SAPRE]

.....J.
[DINESH MAHESHWARI]

New Delhi;
April 08, 2019