

# MOHANAKANNAN

ADVOCATE, HIGH COURT OF KERALA

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## Transaction of Temple Properties File A1-328/2010/MDB

### LEGAL OPINION

Perused the documents. It appears that the temple properties were alienated / transferred without any concurrence or knowledge of the erstwhile HR & CE Department. Since the transaction is in respect of the temple property, it squarely hits by Sec.29 of the HR & CE Act. <sup>to be</sup> The lease is there invalid.

Apart from that, the persons in possession of the property cannot lay claim to the property by virtue of the provisions of the Kerala Land Reforms Act. Sec.3 of the Kerala Land Reforms Act deals with exemption from the operation of the Act. Sec.3(x) says that "the tenancies in respect of sites, tanks, premises of any temple, mosque or church (including sites dealing with the temple, mosque or church or which religious ceremonies are conducted) and sites of office buildings and other buildings attached to such temple mosque or church created by the owner, trustee or mortgager of such temple, mosque or church". Therefore, even if any order is passed by the Land Tribunal by issuing purchase certificates to any of the occupants, it is not valid in law since the Land Tribunal has no inherent jurisdiction to deal with the matter in view of Sec.3(10).

The unauthorized occupants have to be evicted in accordance with Sec.94A of the Madras Hindu Religious and Endowment Act, by which the provisions of the Kerala Land Conservancy Act, 1957 is made applicable to all lands belonging to the Board and religious institutions. Therefore, the unauthorized occupants can be evicted by recourse to the provisions of the Kerala Land Conservancy Act.

As per the provisions of the Kerala Land Conservancy Act, Sections 11 & 12, summary eviction has to be effected by the District Collector. Therefore, it is open to the Board to request the District Collector to evict the unauthorized occupants of temple property by recourse to the provisions of Kerala Land Conservancy Act.

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It is relevant that while making the request to the District Collector the Board has to furnish a schedule properties with available details such as Sy. No., extent, boundaries and the names of the persons who are in possession etc.

Therefore, it may be appropriate to file an application before the District Collector requesting him to evict the unauthorized occupants by recourse to the provisions of the Kerala Land Conservancy Act.

Dated this the 30<sup>th</sup> day of April, 2010.

  
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(STANDING COUNSEL FOR  
MALABAR DEVASWOM BOARD)