IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2015

CORAM

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH

W.P. No. 13738 of 2015

&

M.P. No. 1 of 2015

Mr.M.A. Arivazhagan ..Petitioner

Vs.

1. The Secretary to
Government of Tamil Nadu,
Commercial Taxes and Religious
Endowments Department,
Fort St. George,
Chennai - 600 009.

2. The Commissioner,
HR & CE, Nungambakkam,
Chennai - 600 034.

3. The Joint Commissioner/
Executive Officer,
Arulmighu Arunachaleswarar
Thirukoil,
Thiruvannamalai Post and Dist.

4. The Joint Commissioner
Administration,
HR & CE Department,
Villupuram Post and District. ..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus to call for the records of the Termination of Lease order cum Notice of the 3rd respondent in Na.Ka.No. 461/2014/A3 dated 12.08.2014 , quash the same and to direct respondents 2, 3 & 4 to reconsider the entire matter afresh after granting a personal hearing to the petitioner, who can be permitted to produce relevant records.

For Petitioner :: Mr.V. Raghupathi

For Respondents :: Mr.P.Sanjay Gandhi, Addl. Govt. Pleader for R1 & R2
Mr.N. Sathiamoorthy for R3

O R D E R

The petitioner, being in occupation of the property of Arulmighu Arunachaleswarar Temple, Thiruvannamalai, has come forward to challenge the proceedings dated 12.08.2014 of the 3rd respondent by which he was asked to pay a sum of Rs.20,92,980/-, towards arrears of rent, failing which, it was informed that the lease in favour of the petitioner would be terminated and action would be taken under Section 78 of the Hindu Religious and Charitable Endowments Act, 1959.

2. It appears that proceedings have already been initiated under Section 78 of the said Act.

3. Learned counsel for the petitioner submitted that the petitioner filed an appeal before the 2nd respondent under Section 69 of the Act against the order dated 12.08.2014, which was returned by proceedings N.Dis.No. 53040/2014 (D.2) dated 13.10.2014 stating that the appeal is not maintainable and that the remedy open to the petitioner is to file an appeal under Section 34-A(3) of the said Act.

4. In view the above, the only option open to the petitioner is to file an appeal under Section 34-A(3) of the said Act before the very same Commissioner, HR & CE Department.

5. Hence, this writ petition stands disposed of giving liberty to the petitioner to file an appeal under Section 34-A(3) of Hindu Religious and Charitable Endowments Act, 1959, within a period of four weeks from the date of receipt of a copy of this order. The petitioner will have to pay a sum of Rs.3,50,000/- (Rupees Three lakhs and fifty thousand only) along with the appeal to be preferred within the aforesaid time period. Thereafter, the petitioner will have to pay another sum of Rs.3,50,000/- (Rupees Three lakhs and fifty thousand only) within a further period of four weeks. As and when the appeal is preferred within the time limit prescribed above, the Appellate Authority will have to decide the same on merits and in accordance with law, without rejecting it on the ground fo limitation or insisting for higher payment. The appeal to be

filed will have to be disposed of by the Appellate Authority within a period of 12 weeks from the date of filing of the appeal. All the issues are left open to be decided by the Appellate Authority. In the meanwhile, status quo, as on date, shall be maintained. The writ petition is disposed of accordingly. No costs.

sd/
ASSISTANT REGISTRAR(CS-IV)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

nv

To

1. The Secretary to
Government of Tamil Nadu,
Commercial Taxes and Religious
Endowments Department,
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Chennai - 600 009.

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4. The Joint Commissioner
Administration,
HR & CE Department,
Villupuram Post and District.

+1 CC to MR.V. Raghupathi Advocate. SR.NO.63316
+1 CC to MR.N. Sathiamoorthy Advocate. SR.NO.63725

W.P. No.13738/2015

AR-IV
JD 27/11/2015