

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.06.2015

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.15503 of 2015

and

M.P.No.1 of 2015

L.Gunasundari
W/o.R.Lakshmanan

...Petitioner

-Vs-

1. The Joint Commissioner,
Hindu Religions and Charitable
Endowment Administration Department,
Villupuram.
2. The Executive Officer,
Arulmigu Pandi Azhagar Ayyanar Temple,
Thiru.vi.ka Road,
Villupuram.
3. The Trustee,
Arulmigu Pandi Azhagar Ayyanar Temple,
Thiru.vi.ka Road,
Villupuram.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents to remove the lock and seal in the premises in old door No.1, new door No.78/B, Thiur.vi.ka Street, Villupuram, Ward A, Block No.49, T.S.No.4 and thereby forebear the respondents from interfering in the business run by the petitioner except under due process of law.

For Petitioner : Mr.N.Suresh

For Respondents : Mr.R.Vijakumar,
Addl. Government Pleader [R1 & R2]

O R D E R

By consent, the Writ Petition itself is taken up for final disposal.

2. The petitioner claims that her husband viz., late Lakshmanan was a Burma repatriate and he has started a business selling ice cream from the year 1962 and the petitioner, being the wife, assisted the said business. The second respondent has issued a notice on 11.02.2014, calling upon the petitioner to vacate and deliver the possession of the property in question. Subsequently, the second respondent has issued another notice on 08.12.2014 seeking exorbitant rent and challenging the illegality of the same, the husband of the petitioner filed W.P.No.33358 of 2014. This Court, while disposal of the said writ petition on 17.12.2014 observed, there is no document to show that the Government has allotted the property to the husband of petitioner as a Burma repatriate and in so far as the demand notice is concerned, this Court found that there is a denial of opportunity to put forth their objections and therefore, set aside the demand notice and directed the Fair Rent Fixation Committee to issue notice to the husband of the petitioner, give an opportunity with regard to the fair rent payable and after hearing him, fix the fair rent for the premises.

3. The grievance now expressed by the petitioner is that without affording any opportunity, whatsoever, seal has been put on the shop on 28.05.2015 and purport of the aforesaid order has not at all been complied with and hence, the petitioner came forward to file this Writ Petition.

4. Heard the submissions made by Mr.N.Suresh, learned counsel for the petitioner and Mr.R.Vijayakumar, learned Additional Government Pleader, who accepts notice for respondents.

5. This Court, in the order dated 17.12.2014 in W.P.No.33358 of 2014 made it very clear that the Fair Rent Fixation Committee shall issue notice to the petitioner (late husband of the present petitioner), give an opportunity with regard to the fair rent payable and fix the fair rent after hearing. Admittedly, the purport of the said order has not been complied with by the respondent before sealing the premises and hence, on the short ground, the writ petition is to be allowed.

6. In the result, the writ petition is allowed and the respondents are directed to remove the lock and seal of the premises bearing in old door No.1, new door No.78/B, Thiur.vi.ka Street, Villupuram, Ward A, Block No.49, T.S.No.4 and the Fair Rent Fixation Committee is directed to issue a notice quantifying the rent as well as the arrears within a period of two weeks from the date of receipt of a copy of this order. It is open to the petitioner to make an application to recognise her as a tenant and also raised her objections as to the quantum of rent to the said committee, who on receipt of the same, is directed to consider the same and pass orders within a period of eight weeks thereafter. It is also made clear in the event of the possession given back to the petitioner, she shall

not create any third party rights in respect of the property in question. No costs. Consequently, connected miscellaneous petition is closed.

vsm

-s/d-

Assistant Registrar (CS-II)

True Copy

Sub-Assistant Registrar

To

1. The Joint Commissioner,
Hindu Religions and Charitable
Endowment Administration Department,
Villupuram.
 2. The Executive Officer,
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Villupuram.
 3. The Trustee,
Arulmigu Pandi Azhagar Ayyanar Temple,
Thiru.vi.ka Road,
Villupuram.
- + 1 cc to Government Pleader, High Court, Madras SR 26332
- + 1 cc to M/s.N.Suresh, Advocate SR 26300

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