

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:04.02.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.NO.13771 of 2014

K.S. Parithi

..

Petitioner

Vs

1. The Commissioner,
Hindu Religious and Charitable Endowment Department,
Nungambakkam High Road,
Nungambakkam,
Chennai 600 034.
2. The Joint Commissioner,
Office of the Joint Commissioner,
Hindu Religious and Charitable Endowment
Department, Vellore.
3. Arulmigu Subramania Swamy Thirukoil,
Kumara Kottam Kancheepuram,
represented by its Executive Officer,
Kancheepuram.
4. Mrs. P. Suseela,
Proprietrix of M.G.M. Silks,
Old No.496, New Door No.160,
Gandhi Road,
Kancheepuram

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India praying for issuance of Writ of certiorari to call for the records of the 2nd respondent in his proceedings in Na.Ka.No.5050/2013/E1/dated 17.4.2014 and quash the same as illegal.

For Petitioner : Mr. A. Muthukumar

For Respondents : Mr.S. Kandasamy
Special Govt. Pleader (R1 to R3)
Mr. N.S. Sivakumar (R4)

ORDER

Heard Mr. Muthukumar, learned counsel for the petitioner and Mr.S. Kandasamy, learned Special Government Pleader appearing for Respondents 1 to 3 and Mr. N.S. Sivakumar appearing for 4th respondent.

2. With the consent of both parties, writ petition is disposed of at the stage of admission itself without notice to the 4th respondent.

3. The petitioner seeks for issuance of writ of certiorari to quash the order dated 17.4.2014 passed by the 2nd respondent.

4. The 4th respondent was inducted as tenant by the petitioner in respect of the premises bearing Old Door No.496, New Door No.160, Gandhi Road, Kancheepuram.

5. Initially, it appears that the tenancy is in respect of ground floor premises and subsequently, at the request made by the tenant, the first floor has also been rented out to the 4th respondent. The petitioner has filed R.C.O.P.No.3 of 2012 on the file of the Rent Controller cum Principal District Munsif Court, Kancheepuram for evicting the 4th respondent from the premises on the ground that the petitioner requires the premises for their own use and occupation.

6. Counter affidavit was filed by the 4th respondent resisting the eviction petition. Subsequently, additional counter affidavit was filed by the 4th respondent during April 2013 stating that the property in question belongs to the 3rd respondent temple. A reply has been filed by the petitioner to the counter statement and an application has been filed in M.P.No.66 of 2013 under Order VI, Rule 16 and 17 of Cr.P.C for amendment of the main R.C.O.P. The said amendment petition is pending and the 4th respondent has filed his counter and petitioner has filed reply to the counter.

7. In the interregnum, the 4th respondent appears to have approached the 2nd respondent to adjudicate his claim stating that the property is temple's property and with that prayer recognise him as direct tenant by the 3rd respondent temple. The 2nd respondent adjudicated the claim and ultimately came to the conclusion that since R.C.O.P.No.3 of 2012 was pending before the Rent Controller it directed the 3rd respondent temple to implicate itself in the suit proceedings. Since by then the 4th respondent also filed suit for injunction in O.S.No.75 of 2012 on the file of the Principal District Munsif Court, Kancheepuram. A direction was issued to the 3rd respondent to implicate itself in the suit also.

8. In the back ground of these facts, a further order has been passed by the 2nd respondent on 17.4.2014 terming the petitioner as a land grabber directed to take appropriate action against him in this regard. With these facts, the petitioner is before this Court.

9. Now the 3rd respondent temple has also filed an application to implicate themselves in both R.C.O.P.No.3 of 2012 and O.S.No.75 of 2012. The 4th respondent has raised the issue that the petitioner is not his landlord and the property belongs to the temple. Thus, when the matter is pending adjudication before the Civil Court,

which is the appropriate forum to adjudicate the question of landlord and though the issue is not directly challenged, incidentally both the Rent Controller as well as Principal District Munsif , Kancheepuram have to go into the question of title, since the 4th respondent has denied the title of the petitioner and stated that the petitioner is not his landlord.

10. Therefore, till the proceedings are concluded in R.C.O.P.No.3 of 2012 and in O.S.No.75 of 2012, the order passed by the 2nd respondent dated 31.10.2013 and consequently the order dated 17.4.2014 shall be kept in abeyance and shall abide by the order/decreed to be passed in both the proceedings.

11. It is open to both the petitioner as well as the respondents 3 and 4 to raise all thier contentions in the pending proceedings before the leanred District Munsif Court, Kancheepuram in R.C.O.P.No.3 of 2012 and in O.S.No.75 of 2012 before the Principal District Munsif Court, Kancheepuram.

12.The Writ Petition is disposed of in the above terms. No costs. Consequently, the connected M.P.Nos.1 and 2 of 2014 are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

msr
To

1. The Commissioner,
Hindu Religious and Charitable Endowment Department,
Nungambakkam High Road,
Nungambakkam,
Chennai 600 034.

2. The Joint Commissioner,
Office of the Joint Commissioner,
Hindu Religious and Charitable Endowment
Department, Vellore.

1 cc to Mr. N.S. Sivakumar ,Advocate, SR.No.6003
1 cc to Mr.A. Muthukumar ,Advocate, SR.No.5713
1 cc to Government Pleader,Sr.No5824

W.P.No.13771 of 2014

msm(co)pmk.12.2.2015