

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2015

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.20711 of 2015

S.P.Ellappan

...Petitioner

-Vs-

1.The Commissioner,
HR & CE,
Chennai-34.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowments,
Vellore-9.

3.The Assistant Commissioner,
Arulmigu Devaraja Swami Temple,
Kancheepuram.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the entire records in respect of the order passed in R.C.No.14211/2015D2 dated 26.05.2015 by the Commissioner of HR & CE Department and quash the same and consequently direct the first respondent Commissioner of HR& CE to entertain the appeal and to decide the appeal filed by the petitioner on merits.

For Petitioner : Mr.D.Rajagopal

For Respondents : Mr.M.L.Mahendran

Government Advocate (HR & CE)

सत्यमेव जयते
O R D E R

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

2. The petitioner, challenging the legality of the order dated 28.03.2013 passed by the respondents demanding enhanced rent, filed an appeal before the first respondent with a delay of 219 days in filing the said appeal. The petitioner would further state that instead of filing appeal before the first respondent, he has filed

appeal before the second respondent and since, he was diligently prosecuting before the wrong forum, prays for condonation and the first respondent, taking into consideration the averments made and the judgment of the Hon'ble Supreme Court of India, has held that since the petitioner failed to offer tenable reason for condonation of delay, has dismissed the same, vide order dated 26.05.2015 and challenging the same, the present writ petition is filed.

3. Mr.D.Rajagopal, learned counsel appearing for the petitioner would submit that since the petitioner has been prosecuting the proceedings before wrong forum, the delay has occurred and on instructions, would contend that the petitioner is also willing to pay cost for condonation of delay to the second respondent.

4. Per contra, Mr.M.L.Mahendran, learned Government Advocate (HR& CE) would submit that the increased rent is very minimal and since the petitioner has failed to offer tenable reasons for the delay in filing the appeal, it was rightly rejected by the petitioner.

5. This Court has carefully considered the rival submissions and also perused the materials placed before it.

6. This Court, taking into consideration the plea made by the petitioner that since he was prosecuting the proceedings before the wrong forum, namely the second respondent, the delay has occurred and further taking into consideration that he is also willing to pay cost for condonation, this writ petition may be allowed on the following terms.

7. In the result, this writ petition is allowed and the order dated 26.05.2015 passed by the first respondent is set aside subject to the condition that the petitioner shall pay Rs.2,000/- (Rupees Two Thousand Only) to the second respondent within two weeks from the date of receipt of a copy of this order, failing which this writ petition shall stand dismissed. In the event of the petitioner complying with the order of this Court, the delay shall be condoned and if the papers are otherwise in order, the first respondent is directed to take up the appeal and dispose of the same in accordance with law as expeditiously as possible. No costs.

-Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

jvm

To

1.The Commissioner,
HR & CE,
Chennai-34.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowments,
Vellore-9.

3.The Assistant Commissioner,
Arulmigu Devaraja Swami Temple,
Kancheepuram.

+ 1 cc to Government pleader SR 35164

+ 1 cc to Mr.D.Rajagopal, Advocatge, SR 35096

PUR(CO)
YJ 23.07.15

W.P.No.20711 of 2015



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