

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2015

CORAM

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH

W.P.No.26663 of 2015

and

M.P.No.1 of 2015

Dr.Raja Saravanan

... Petitioner

-Vs-

1. The Deputy Commissioner/
Executive Officer,
Arulmigu Parthasarathy Swamy Thirukoil,
Triplicane, Chennai.
2. The Joint Commissioner,
O/o Director of Commissioner for
Hindu Religious and Charitable Endowments,
Uthamar Gandhi Road,
Nungambakkam, Chennai - 600 034.
3. The Commissioner,
Hindu Religious and Charitable Endowments,
Uthamar Gandhi Road,
Nungambakkam, Chennai - 600 034.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorarified mandamus Calling for the records connected with the letter dt. 12.08.2015 made in Na.Ka.No.715/ 2012-Aa4 on the file of the 1st respondent and to quash the said order and to direct him to await for the orders of the 2nd respondent from whose file the Appeal Petition submitted to him on 31.07.2015 without deciding the issues involved, without disturbing the peaceful enjoyment of the petition building.

For Petitioner : Mr.B.Kumar, Senior Counsel
for Mr.R.L.Loganathan

For Respondents : Mr.P.Sanjay Gandhi,
Additional Government Pleader

O R D E R

Challenging the order impugned dated 12.08.2015, by which notice was issued to the petitioner stating that due to the non-payment of rent, the tenancy is terminated and the petitioner will have to pay the arrears of rent and vacate the same, failing which, action under Sections 78 & 79 of the Hindu Religious and Charitable Endowments Act would commence, the present Writ Petition has been filed.

2.As against the said order, the petitioner filed an appeal on 31.07.2015 to the respondent no.2 and therefore, the present Writ Petition has been filed that the proceedings of the respondent no.1 cannot be allowed to continue till the disposal of the appeal.

3.The learned senior counsel appearing for the petitioner submitted that the enhanced rent is unilateral. The order impugned has been passed without considering the relevant materials. As an appeal has been preferred, the impugned order cannot be given effect.

4.Per contra, the learned Additional Government Pleader appearing for the respondents submitted that the petitioner is borne by the terms of the permission granted earlier. The permission is specific to the effect that the petitioner will have to pay the enhanced rent. Having accepted the said condition imposed and thereafter, put up construction, the petitioner cannot wriggle out of the same. Mere filing of an appeal petition cannot be a ground for non-payment of the rent. In any case, the issue is not about the rent, but one of termination of the tenancy. Therefore, no interference is required.

5.Admittedly, the petitioner has filed an appeal before the respondent no.2. The said appeal is a statutory appeal. If the appeal is not in order, the respondent no.2 will have to return the same within two weeks from the date of receipt of a copy of this order. Thereafter, the petitioner can rectify the defects pointed out and re-present the same within a further period of two weeks. After the receipt of the same, the respondent no.2 will have to consider the stay petition and pass appropriate orders. As the impugned order mainly says that appropriate action will be taken under Sections 78 & 79 of the Hindu Religious and Charitable Endowments Act, which would admittedly take sufficient time, this Court is not inclined to stay the same at this stage as the said order says only proposes to take action under the above said provisions. However, it is made clear that if the stay petition is filed, the respondent no.2 will have to pass appropriate orders at

the earliest within two weeks from the date of receipt of a copy of this order. It is also made clear that the petitioner will have to co-operate with the disposal of the stay petition.

6.The Writ Petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

va

To

1. The Deputy Commissioner/
Executive Officer,
Arulmigu Parthasarathy Swamy Thirukoil,
Triplicane, Chennai.
2. The Joint Commissioner,
O/o Director of Commissioner for
Hindu Religious and Charitable Endowments,
Uthamar Gandhi Road,
Nungambakkam, Chennai - 600 034.
3. The Commissioner,
Hindu Religious and Charitable Endowments,
Uthamar Gandhi Road,
Nungambakkam, Chennai - 600 034.

+1cc to Mr.R.Loganathan, Advocate, S.R.No.45299
+1cc to the Government Pleader, S.R.No.45492

W.P.No.26663 of 2015
and
M.P.No.1 of 2015

PUR(CO)
CA(31/08/2015)

WEB COPY