

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.09.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

W.P.No. 28008 of 2015
and
M.P.Nos.1 and 2 of 2015

K.Ramanaiah

...Petitioner

-Vs-

1. The Assistant Commissioner,
Hindu Religious & Charitable Endowment Department,
119, Uttamar Gandhi Salai,
Nungambakkam,
Chennai - 34
2. The Executive Officer,
Arulmighu Pidari Uthanatchiamman
Mangaleswarar & Bala Vinayagar Temple,
Arumbakkam,
Chennai - 106
3. The Joint Commissioner,
Hindu Religious & Charitable Endowment Department,
19, Uttamar Gandhi Salai,
Nungambakkam,
Chennai - 600 034

...Respondents

PRAYER:

Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records of the 3rd Respondent pursuant to the show cause notice Na.Ka.4549/2009/A2 dated 11.08.2015 and quash the same and direct the respondents to constitute a committee to hold an enquiry in the matter of determination of rent in respect of the properties leased out to the petitioner in accordance with the provisions of Section 34-A of the Tamilnadu Hindu Religious & Charitable Endowment Act 1959.

For Petitioner : Mr.S.Balaji
For Respondents : Mr.K.V.Dhanapalan
Additional Government Pleader

O R D E R

By consent of both sides, the Writ Petition itself is taken up for final hearing.

2. Challenging the proceedings of the 3rd respondent dated 11.08.2015 by which the petitioner was asked to appear for the enquiry proceedings initiated under Section 78(2) of the Act, the present Writ Petition has been filed.

3.The learned counsel for the petitioner submitted that a decree was obtained against the 2nd respondent on the earlier occasion in A.S.375 of 2010 dated 29.08.2011.

4.Reliance has been made on the Judgment of the Division Bench of this Court in 2009-3-L.W.728, (Arulmigu Angala Parameswari and Kasivishwanathaswami Temple, Adimanaiveal House Owners Asso. Vs.The state of Tamilnadu rep. By its Secretary to Government, Hindu Religious and Charitable Endowment Dept., Fort St.George, Chennai - 600 009 and others on the scope and applicability of Section 34 A of the Act with respect to fixation of lease rent.

5.This Court does not find any ground to interfere with the Order under challenge at this stage. Admittedly, the 3rd respondent is the competent authority to issue notice for the purpose of conducting an enquiry. The petitioner was asked to appear in pursuant to the said notice issued. Instead of appearing before the 3rd respondent, the petitioner has come forward before this Court by filing Writ Petition.

6.The issue, which is to be decided by the 3rd respondent is on the question of the petitioner being an encroacher or not under Tamilnadu Hindu Religious & Charitable Endowment Act 1959. In other words, it has no relevancy to Section 34A of the Act or the Civil Court decree obtained by the petitioner as against the 2nd respondent.

7.In view of the above, the Writ Petition is disposed of giving a further period of four weeks from the date of receipt of copy of the order to the petitioner to give his response by appearing before the 3rd Respondent. Thereafter, the 3rd respondent shall pass appropriate orders on merits and in accordance with law

without being impressed by any other observation made in this Writ Petition. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

ssd

To

1. The Assistant Commissioner,
Hindu Religious & Charitable Endowment Department,
119, Uttamar Gandhi Salai,
Nungambakkam, Chennai - 34
2. The Executive Officer,
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3. The Joint Commissioner,
Hindu Religious & Charitable Endowment Department,
19, Uttamar Gandhi Salai,
Nungambakkam, Chennai - 600 034

1 CC to Mr.S.Balaji, Advocate SR.No. 48216

1 CC to the Government Pleader, SR.No. 48461

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CNR (CO)
PSI (01.10.2015)