

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

Writ Petition No.30455 of 2015

J.Suresh Kumar,
Rep. By Power Agent, R.C.Minii,
D/o. (Late) V.G.Rajendran

...Petitioner

Vs

1. The Commissioner,
Hindu Religious and Charitable Endowment Board,
Nungambakkam,
Chennai - 600 034
2. The Joint Commissioner,
Hindu Religious and Charitable Endowment Board,
Nungambakkam,
Chennai - 600 034
3. The Executive Officer,
Arulmighu Dhandeeswarar Tirukoil,
Velachery,
Chennai - 600 042

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the second respondent herein to consider the representation of the petitioner dated 06.04.2014 and to provide him an opportunity of hearing to give his explanation to the show cause notices dated 03.12.2008 and 26.08.2013 which were issued in his name in a different addresses.

For Petitioner : M/s. P.T.Asha, for,
M/s.Sarvabhauman Associates

For Respondents : Mr. K.V.Dhanapalan, AGP.,

O R D E R

Mr.K.V.Dhanapalan, learned Additional Government Pleader, takes notice for the respondents. By consent of the learned counsel appearing for both sides, the writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner was originally a lessee. He was issued with two show cause notices dated 03.12.2008 and 26.08.2013 respectively. The petitioner did not reply to the said show cause notices. However, a representation was made by the petitioner on 06.04.2014 to the first respondent. Now seeking to consider the said representation and to provide him an opportunity of hearing, the present writ petition has been filed by the petitioner.

3. Heard the learned counsel appearing for both sides.

4. The learned counsel appearing for the petitioner submitted that, what the petitioner seeks is an adjudication on merits; as no orders are passed in pursuant to the show cause notices issued, the writ petition will have to be allowed.

5. Per contra, the learned Additional Government Pleader appearing for the respondents submitted that, the petitioner, admittedly, as seen from the averments made in the affidavit filed in support of this writ petition, has handed over possession to a third party; a person, by name, Vinoth Kumar, claiming right from the said third party, has filed a suit for declaration, seeking to declare himself as a tenant; proceedings have also been initiated against the said Vinoth Kumar against Section 78 of the HR & CE Act, treating him as an encroacher. Thus, the learned Additional Government Pleader appearing for the respondents submitted that, at this distant point of time, nothing survives for adjudication in this writ petition.

6. This Court is not willing to go into the merits of the case. It appears that in pursuant to the show cause notices dated 03.12.2008 and 26.08.2013, no final orders have been passed by the respondents. The petitioner has given a representation on 06.04.2014. Thus, the second respondent is hereby directed to pass appropriate orders, in pursuant to the show cause notices issued on 03.12.2008 and 26.08.2013, on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order, after affording an opportunity of hearing in-person to the petitioner

and communicate the decision taken to the petitioner. It is needless to state that this order cannot be construed as the one, giving right to the petitioner, since the merits of the matter have not been gone into, particularly when there are subsequent developments that have taken place.

7. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

srk

To

1. The Commissioner,
Hindu Religious and Charitable Endowment Board,
Nungambakkam, Chennai - 600 034
2. The Joint Commissioner,
Hindu Religious and Charitable Endowment Board,
Nungambakkam, Chennai - 600 034
3. The Executive Officer,
Arulmighu Dhandeeswarar Tirukoil,
Velachery, Chennai - 600 042

1 CC to M/s.Sarvabhauman Associates, Advocate SR.No. 54036

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W.P.No.30455 of 2015

SV (CO)
PSI (20.10.2015)