



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 18.12.2015
CORAM:

THE HONOURABLE Mr. JUSTICE K. RAVICHANDRABAABU

WEB COPY

W.P. (MD) No. 22871 of 2015
and
M.P. (MD) No. 1 of 2015

V. Ramesh Kumar

... Petitioner

Vs.

1. The Commissioner,
HR & CE Department,
No. 119, Utthamar Gandhi Nagar,
Nungampakkam, Chennai 34.

2. The Joint Commissioner,
HR & CE Department,
Mayiladuthurai,
Nagapattinam District.

3. The Assistant Commissioner,
HR & CE Department,
Ayeekulam Road,
Kumbakonam,
Thanjavur District.

4. The Executive Officer,
Sri Kaasi Vishwanathar Kovil,
Kaasi Vishwanathar Kovil Street,
Kumbakonam,
Thanjavur District.

... Respondents

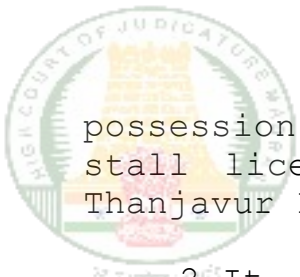
PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st respondent to consider the representation of the petitioner dated 20.11.2015 and consequently, direct the respondents not to take possession of the rental premises situated at Bunk stall - Tea stall licensee No. 4/429, Mahamahakulam West Street, Kumbakonam, Thanjavur District till the disposal of the petitioner's representation dated 20.11.2015 by the 1st respondent.

For Petitioner : Mr. M. V. Santharaman

For Respondents : Mr. V. Muruganantham, AGP

O R D E R

<https://hcservices.efforts.gov.in/hcservices/>
The petitioner seeks for a mandamus, directing the 1st respondent to consider his representation dated 20.11.2015 through which, he sought indulgence from the respondents not to take



possession of the rental premises situated at Bunk stall - Tea stall licensee No.4/429, Mahamahakulam West Street, Kumbakonam, Thanjavur District.

2. It is seen that the petitioner was issued with the proceedings dated 19.11.2015 calling upon him to vacate and handover possession of the above said premises for a temporary period commencing from 01.12.2015 to 22.02.2016 for the purpose of conducting Mahamagam festival. In respect of the very same proceeding issued against the other tenants, this Court passed an order in W.P.(MD)Nos.21689, 21693, 21671 and 21846 of 2015, as follows:

"All these Writ petitions are filed by the respective petitioners / tenants under the 4th respondent / Temple, aggrieved against the orders issued on 19.11.2015 by the 4th respondent / Temple, calling upon the petitioners to vacate their respective shops temporarily for a period commencing from 01.12.2015 to 22.02.2016 so as to enable the 4th respondent / Temple to perform the Mahamaham festival, without causing any disturbance or obstruction to the general public to have the holly-bath in the said Mahamaham Tank.

2.Mr.V.Muruganantham, learned Additional Government Pleader takes notice for the respondents 1 to 3 and Mr.V.Chandrasekar, learned counsel takes notice for the 4th respondent. By consent of parties, the main Writ petitions are taken up for final disposal.

3.Mr.R.Subramanian, learned counsel appearing for the petitioners in all these matters submitted that the petitioners are sought to be evicted from their respective premises, without following due procedure as contemplated under Hindu Religious and Charitable Endowment Act and therefore, the impugned orders are illegal. He further submitted that the small shops, which are being run by these petitioners, are not going to cause any hindrance to the public in any manner during the Mahamagam festival and therefore, the apprehension of the 4th respondent / Temple which culminated into passing the impugned orders is without any basis.

4.Per contra, the learned Additional Government Pleader appearing for the respondents 1 to 3 as well as the learned counsel appearing for the 4th respondent / Temple submitted that the impugned orders have been passed only for a short period that too as a temporary measure and therefore, the petitioners cannot have any grievance, as the temple authorities have to



conduct the Mahamagam festival by taking all effective steps to see that the said festival is conducted safely and peacefully without causing any hindrance to the public to have the holly-bath in the Mahamagam Tank.

5. The learned counsel appearing for the 4th respondent / Temple submitted further that after the Mahamagam festival, the respective shops will be handed over to the petitioners and therefore, the petitioners' apprehension that they are being evicted from the respective shops is totally without any basis.

6. Though the learned counsel appearing for the petitioners vehemently argued and opposed the impugned orders passed by the 4th respondent as if, the petitioners are being evicted from the premises, without following due procedure, this Court is not convinced to accept the said submission for the simple reason that the impugned orders are not to the effect that the petitioners should vacate the premises once for all and on the other hand, they have to vacate and hand over the premises only for limited period namely, from 01.12.2015 to 22.02.2016, that too for the purpose of conducting Mahamagam festival in a peaceful, safe and effective manner, without causing hindrance to the general public to have their holly-bath in the Mahamagam Tank.

7. It is not in dispute that all these shops are located on the Western side of the Mahamagam Tank and therefore, I find that the temple authorities have rightly called upon these petitioners to vacate and hand over the shops to the temple authorities that too for a limited period. However, after the matters were heard for a while, the learned counsel appearing for the petitioners came out with a suggestion that instead of the petitioners vacating the shops in total and handing over the possession of the same to the 4th respondent / Temple, their shops may be locked and sealed during the above said period and once the festival is over, the seal and lock may be removed and the petitioners may be permitted to run the shops thereafter.

8. For the above said suggestion made by the learned counsel appearing for the petitioners, the learned counsel appearing for the 4th respondent / Temple is not having any objection. He further undertaking that the above shops of the petitioners will be locked and sealed during the



said period and immediately after Mahamagam festival, the temple authorities will remove the lock and seal and permit the petitioners to continue their business in their respective shops from 23.02.2016 onwards.

9. The above undertaking given by the 4th respondent is recorded. Consequently, in all these Writ petitions, the following order is passed:

(a) The petitioners shall permit the 4th respondent / Temple to lock and seal their respective shops on 15.12.2015.

(b) The 4th respondent / Temple shall remove the lock and seal and handover the respective shops to the petitioners on 23.02.2016, without seeking extension of further time.

(c) The 4th respondent / Temple is directed not to collect rent from these petitioners for the period commencing from 15.12.2015 to 22.02.2016.

With the above directions, these Writ petitions are disposed of. No costs. Consequently, connected M.P.s are closed.

Therefore, I find that the same benefits may be given to the petitioner herein also as has been done in the other cases.

3. Accordingly, in this case also the following order is passed:

(a) The petitioner shall permit the 4th respondent / Temple to lock and seal the petitioner's shop.

(b) The 4th respondent / Temple shall remove the lock and seal and handover the shop to the petitioner on 23.02.2016, without seeking extension of further time.

(c) The 4th respondent / Temple is directed not to collect rent from the petitioner for the period commencing from 15.12.2015 to 22.02.2016.

4. With the above directions, this Writ petition is disposed of. No costs. Consequently, connected M.P. is closed.

Sd/-
Assistant Registrar (C.O)

/TRUE COPY/

Sub Assistant Registrar



To

1.The Commissioner,
HR & CE Department,
No.119, Utthamar Gandhi Nagar,
Nungampakkam,
Chennai 34.

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4.The Executive Officer,
Sri Kaasi Vishwanathar Kovil,
Kaasi Vishwanathar Kovil Street,
Kumbakonam,
Thanjavur District.

+1 cc to M/S. V.SANTHARAMAN, ADVOCATE, SR NO:72786

+1 cc to M/S SPL.GOVERNMENT PLEADER, SR NO:72662

JAM/NGM-SS/07.01.2016/5P-7C

W.P. (MD) No.22871 of 2015
18.12.2015