

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.16245 of 2016
and
WMP.No.14041 of 2016

Mermaid Properties Private Ltd
rep. by its Managing Director,
P.Ramachandran

... Petitioner

Vs.

1.The Commissioner,
HR & CE Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam
Chennai 600 034.

2.The Executive Officer,
Arulmighu Nithya Kalyana Perumal Temple,
Thiruvadanthai, Kancheepuram District.

... Respondents

PRAYER : Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of declaration declaring that the petitioner is entitled for renewal of lease of land as per the terms and conditions of the lease agreement dated 03.08.2007 for an extent of 22 cents in survey no.96/1 Thiruvadanthai Village, Kancheepuram District belonging to Sri Arulmighu Nithya Kalyana Perumal Temple on such terms and conditions as may be fixed by the second respondent.

For Petitioner : Mr.P.Subba Reddy
For Respondents : Mr.K.V.Dhanabalan,
AGP (HR&CE)

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O R D E R

The petitioner has filed the present writ petition, for a declaration, declaring that they are entitled for renewal of lease of land measuring to an extent of 22 cents in survey no.96/1, Thiruvadanthai Village, Kancheepuram District, belonging to Sri Arulmighu Nithya Kalyana Perumal Temple, as per the terms and conditions of the lease agreement dated 03.08.2007 executed by the second respondent.

2. The case of the petitioner, as averred in the writ petition is as follows

2.1 The petitioner purchased the lands in S.No.136/2 measuring to an extent of 19.50 acres from one Eswaramoorthy Nadar vide Document Nos.887 and 888 of 1992 dated 07.05.1992. They also purchased another piece of land in S.No.136/1B Part measuring to an extent of 1.50 acres from one Promillakanwar and Seethaparkash vide Document Nos.2142, 2143 and 2144 of 1992 dated 11.11.1992. The said lands are adjacent and next to the lands measuring to an extent of 0.22 cents in S.No.96/1 belonging to Arulmighu Nithya Kalyana Perumal Temple. The land of the temple in S.No.96 falls between the petitioner's lands and ECR Road.

2.2 Originally, the total extent of land in S.No.96 was 2.70 acres, out of which, an extent of 2.39 acres was given for East Coast Road extension, the survey number of which was sub divided as New S.No.96/2. The balance land in S.No.96, which was now called as New S.No.96/1, was measuring to an extent of 31 cents, out of which the petitioner has been in possession and enjoyment of 22 cents of land as a lease holder vide a lease agreement dated 03.08.2007. The said lease was granted to the petitioner for a period of three years, as per the approval granted to the second respondent temple by the Government in G.O.No.177 dated 08.06.2007 and the same expired on 31.07.2010. The petitioner company is using the said lease land as entry point from ECR Road to their lands.

2.3 The temple land under lease is a very narrow space with the length of 1140 feet and width of less than 10 feet covering the entire stretch of the petitioner's lands in S.Nos.136/1 and 136/2 from South to North on the ECR road and the same has been used as an access passage from the ECR to the lands of the petitioner and it cannot be used for any other purpose.

2.4 According to the petitioner, they have not used the temple land unauthorisedly and they have been using the same with care and protection by adhering to all the terms and conditions set out in the lease agreement. However, the respondents have not renewed the lease agreement from 31.07.2010 in favour of the petitioner. Hence, the petitioner made several representations to the respondents requesting to renew the lease. But, till date, no order has been passed by the respondents.

2.5 In such circumstances, the Panchayat Officials, at the instigation of certain local persons, are now trying to harass the petitioner and also attempting to interfere with the possession of the petitioner. Further More, on 13.04.2016 and

18.04.2016, the second respondent has entered into the petitioner's lands and tried to interfere with their possession. Therefore, the petitioner has filed the present writ petition for the above stated relief.

3. When the matter came up for consideration, learned counsel for the petitioner submitted that the petitioner is entitled for renewal of lease, as per the terms and conditions of the lease agreement dated 03.08.2007, whereas, the same is seriously opposed by the learned Additional Government Pleader, who took notice for the respondents.

4. This Court, irrespective of the submissions made on either side, permits the petitioner to submit a fresh representation along with a copy of this order to the first respondent within a period of two weeks from the date of receipt of a copy of this order. On submitting such representation, the first respondent is directed to consider the same by affording an opportunity of personal hearing to the petitioner and pass appropriate orders within a period of four weeks thereafter. It is made clear that this Court is not expressing any opinion with regard to the merits of the claim made by the petitioner and it is for the first respondent to pass appropriate orders purely on merits and in accordance with law. Till such time, there shall be an order of status quo as on today.

5. The writ petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.
rk

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To

1.The Commissioner,
HR & CE Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam, Chennai 600 034.

2.The Executive Officer,
Arulmighu Nithya Kalyana Perumal Temple,
Thiruvadanthai, Kancheepuram District.

+ 3 ccs to M/s.P.subba Reddy, Advocate, SR 26963
+ 1 cc to Govt.Pleader, High Court, Madras SR 27373

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