

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.19233 of 2016
and
W.M.P.No.16715 of 2016

Dr.Raja Saravanan

... Petitioner

Vs.

1. The Deputy Commissioner/Executive Officer
Arulmigu Parthasarathy Swamy Thirukkcoil,
Triplicane,
Chennai 600 005.
2. The Joint Commissioner
O/o.Director of Commissioner for
Hindu and Religious and Charitable Endowments,
Uthamar Gandhi Road,
Nungambakkam,
Chennai 600 034.
3. The Commissioner for 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 order dated 05.05.2016 made in N.Dis.No.20155/2016/D2 on the file of the third respondent and to quash the same and further direct the third respondent to follow the directions of this Court to consider the statutory appeal filed by the petitioner against the order dated 12.03.2015 made in Na.Ka.No.715/2012/A6 on the file of the first respondent forthwith along with the related applications.

For Petitioner : Mr.R.Loganathan

For Respondents : Ms.Rita Chandrasekaran
Special Government Pleader for
(HR & CE)

O R D E R

By consent, the writ petition is taken up for final disposal.

2. The petitioner is a Medical Practitioner and he is in possession of the buildings bearing Door No.102A, T.P.Koil Street, Triplicane, Chennai-5 and Door No.108, Thulasinga Perumal Koil Street, Triplicane, Chennai-5 and he was granted lease of the said premises vide Lease Deed dated 29.09.2000, particularly in respect of the premises bearing Door No.102A, Thulasingham Street, Chennai-5, admeasuring to an extent of 1509 sq.ft. along with the superstructure and the monthly rent payable was Rs.9680/- and the advance amount fixed was Rs.58080/- representing six months rent. The petitioner, during the year 2015 had an arrears of Rs.7,73,890/-.

3. The petitioner, on an earlier occasion, approached this Court by filing WP.No.26663/2015, praying for quashment of the records relating to the letter dated 12.08.2015 passed by the 1st respondent with a further direction to await for the orders in respect of the appeal pending before the 2nd respondent. This Court, vide order dated 26.08.2015, had disposed of the writ petition by directing the Appellate Authority to return the appeal papers, if it is not in order, with a further direction to the petitioner to comply with the defects pointed out and also consider the stay application in the event of being filed and to pass appropriate orders within a period of two weeks from the date of receipt of a copy of that order.

4. The petitioner, subsequently approached this Court by filing WP.No.11373/2016, praying for issuance of a writ of mandamus, directing the 3rd respondent herein to consider the statutory appeal filed by him against the order dated 12.03.2015 passed by the 1st respondent and to dispense with the production of pre-deposit rental arrears as demanded in the order. This Court, vide order dated 28.03.2016, has disposed of the said writ petition, by directing the petitioner herein to make good the pre-deposit of fair rent arrears, within a period of eight weeks from the date of receipt of a copy of that order.

5. Admittedly, the petitioner had made a part payment of pre-deposit arrears and not deposited the entire arrears in terms of the above cited orders and taking note of the same, the 3rd respondent has passed the impugned order dated 05.05.2016, by returning the appeal petition on the ground of non-deposit of the pre-deposit rental arrears and challenging the legality of the same, the petitioner is before this Court by way of filing the present writ petition.

6. Learned counsel for the petitioner would submit that since the adjustment have to be made out of the advance deposited by the petitioner, it should be done and thereafter, the appeal is to be taken on file and it would be given disposal in accordance with law and he would further submit that the petitioner is paying the contract monthly rent properly.

7. Per contra, Mrs.Rita Chandrasekar, learned Special Government Pleader [HR&CE] who accepts notice on behalf of the respondents, on instructions, would submit that admittedly, the petitioner did not comply with the order dated 28.03.2016 made in WP.No.11373/2016, which directs the petitioner herein to pay the pre-deposit rental arrears for entertainment of the appeal and the petitioner had deposited only a part of the rental arrears and also he is not properly tendering the monthly lease amount and therefore, he is not entitled to any indulgence from the Court and prays for dismissal of this writ petition.

8. This Court considered the rival submissions and also perused the materials placed before it.

9. It is to be pointed out at this juncture that the petitioner is a medical practitioner and he is possession of a prime property belonging to the 1st respondent temple at Triplicane and it is unfortunate to note that he is having rental arrears and despite the indulgence shown by this Court on two occasions, especially, on the last occasion, vide order dated 28.03.2016 made in WP.No.11373/2016, he has not complied with the orders in making the pre-deposit of rental arrears. Though it is contended by the learned counsel for the petitioner that the advance amount paid by him is to be adjusted against the pre-deposit monthly arrears, such a submission was not made at the time of hearing the writ petition in WP.No.11373/2016. In the light of the conduct exhibited by the petitioner, this Court is not inclined to grant any relief to the petitioner.

10. In the result, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

AP

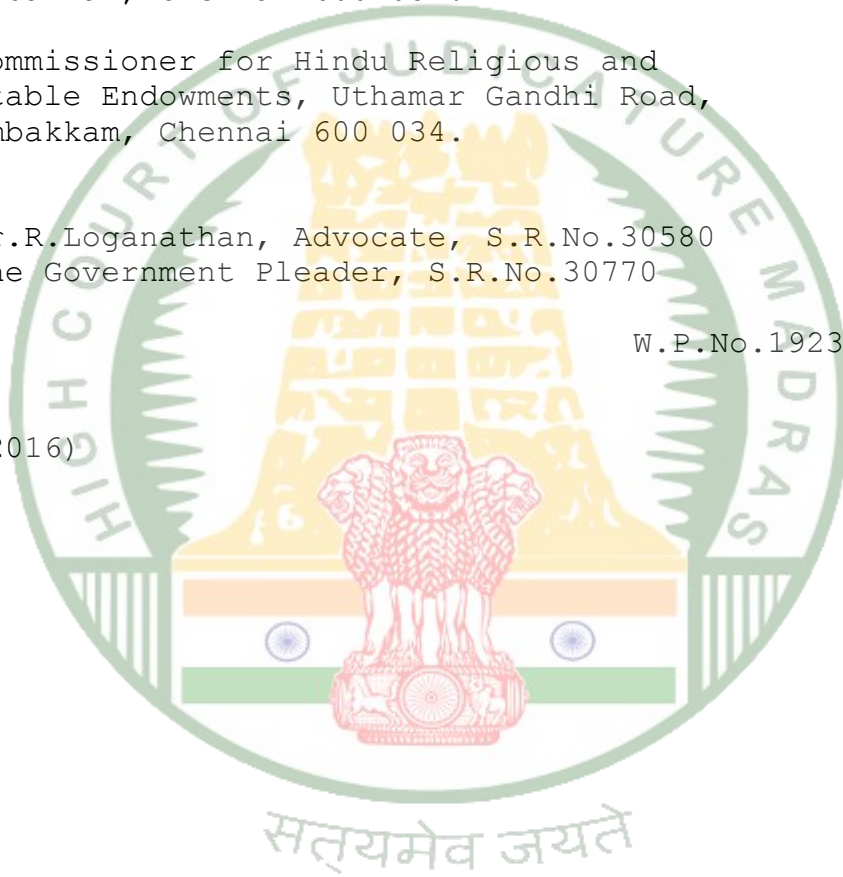
To

1. The Deputy Commissioner/Executive Officer
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2. The Joint Commissioner
O/o.Director of Commissioner for
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3. The Commissioner for Hindu Religious and
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Nungambakkam, Chennai 600 034.

+1cc to Mr.R.Loganathan, Advocate, S.R.No.30580
+1cc to the Government Pleader, S.R.No.30770

W.P.No.19233 of 2016

CTK (CO)
CA(17/06/2016)



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