

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.1966 of 2016

T.N.Alagarsamy

.. Petitioner

Vs.

1. The Commissioner
Hindu Religious and Charitable
Endowment Department,
Nungambakkam,
Chennai.
- 2.The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
Nungambakkam,
Chennai.
- 3.The Executive Officer,
Gangadeeswarar Temple Devasthanam,
Purasaivakkam,
Chennai - 84.

... Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of writ of Mandamus directing the respondents to dispose of the petitioner's representation dated 04.01.2016, within the time frame.

For Petitioner : Mr.M.Vivekanandan

For Respondents : Mr.P.Sanjay Gandhi,
Additional Government Pleader

O R D E R

The present Writ Petition has been filed seeking a writ of mandamus to dispose of the petitioner's representation dated 04.01.2016, and quash the same.

2. The petitioner herein purchased a superstructure house and building measuring an extent of 1200 sq.ft. consisting of a larger extent of house site measuring 1 ground and 959 sq.ft.

The land in which the superstructure was constructed belongs to the third respondent, Gangadeeswarar Temple Devasthanam. The land originally, leased out to one Tmt.Perundeviammal and Smt. Radhammal, on a monthly rent of Rs.35.80. The land in which the superstructure is erected, belongs to Gangadeeswarar Koil Devasthanam was constructed by one Mr.Venkataragavachariar having lease hold rights by virtue of Lease Deed dated 01.01.1908. After his demise, his legal heirs i.e., Sreenivasa Ragava Chariar and Tmt. Nanammal, became the absolute owners of the said property. The said Sreenivasa Ragava Chariar had made provisions for the said Nanammal, issueless, widow of his late brother Gopalasamy Iyengar, by way of maintenance deed. She becomes the absolute owner of the property alongwith other properties. The said Srinivasa Ragavachariar made a Will dated 07.06.1938, bequeathing all his properties in favour of his wife Seshammal with full powers of alienation and registered as document No.16 of 1938 on the file of the Sub-Registrar, Thiruvettipuram. The said Srinivasa Raghavachariar died issueless. Thereafter, his wife Seshammal also died and subsequent to the death of Seshammal and consequent to the probate proceedings of her Will and as per the order of this Court, dated 09.04.1965, one Perundevi Ammal, became the owner. Originally an agreement was entered into on 26.02.1981, between the petitioner and the said Perundevi Ammal consequently, the said Perundevi Ammal sold the property in favour of the petitioner, vide document No.542 of 1981, on 18.03.1981. Whiles, the third respondent herein, filed a suit in O.S.No.1132 of 1989 on the file of the XVIII Assistant City Civil Court, Chennai, for recovery of possession and also to pay Rs.358/- towards past damages and Rs.200/- towards future damages. The said suit was decreed on 13.07.2009. Even after passing of the decree, no steps were taken by the third respondent and the petitioner was continued to be in possession. In view of Section 77(3) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1969, the authority is having power to sanction license for the occupation of any such land or space. However, the third respondent made a paper publication in the Tamil Daily 'Dinathanthi' on 13.11.2014, calling upon the sublease holders and persons whoever claiming as tenants for transferring of names in the names in the lessee or licensee to approach on or before 20.11.2014. The petitioner herein on coming to know about the paper publication approached the first respondent and made a representation on 19.05.2015 for transferring of lease hold rights pertaining to the property bearing Old No.120, New No.121, Arulmighu Gangadeeswarar Kovil Agrahara Street, Purasaivakkam, Chennai- 84. Though the said representation was received by the first respondent, the same has not been considered till date. The petitioner also sent another representation on 14.11.2015 to the third respondent and once again made representations on 04.01.2016, to the respondents 1 to 3 however, no results were forthcoming, the

petitioner has filed the present writ petition.

3. Considering the submissions made, without going into the merits and the rights claimed by the petitioner in the property, the petitioner is hereby directed to give a fresh copy of the representation along with the copy of this order, within a period of two weeks, from the date of receipt of copy of this order and on receipt of the same, the third respondent is directed to consider the representation of the petitioner and pass orders, with regard to request of the petitioner, to transfer the lease or licence for the land situated in Old No.120, New No.121, Gangadeeswarar Koil, Agragaram Street, Purasaiwalkam, Chennai.

4. It is also made clear that this Court has not expressed any opinion with regard to the merits of the claim made by the petitioner and it is for the third respondent, to decide the issue by taking note of the decree passed in O.S.No.1132 of 1989 and also the other relevant documents, within a period of six weeks, from the date of receipt of the representation of the petitioner along with the copy of this order. This Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner,
Hindu Religious and Charitable
Endowment Department, Nungambakkam,
Chennai.

2.The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department, Nungambakkam,
Chennai.

3.The Executive Officer,
Gangadeeswarar Temple Devasthanam,
Purasaivakkam, Chennai - 84.

+1cc to Mr.M. Vivekanandan, Advocate, S.R.No.9424

+1cc to the Government Pleader, S.R.No.9507

KK(CO)

EU(24/02/2016)

W.P.No.1966 of 2016