

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.01.2016

CORAM

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

W.P.No.1985 of 2016

Mr. Ukkumraj

[Petitioner]

Vs

1. The Secretary,
The State Government of Tamilnadu,
Hindu Religious and Charitable Endowments,
Secretariat, Chennai 600 009.
 2. The Fit Person/The Assistant Commissioner/
Executive Officer of
A/M. Pattinathar Thirukoil,
Thiruvotriyur,
Chennai 600 019.
- [Respondents]

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus to call for the records pertaining to notice dated 14.1.2016 passed by the 2nd respondent, H.R. & C.E., and quash the same and consequently direct the 1st respondent to dispose of the Revision Petition filed under Section 114(1) of the H.R. & C.E. Act on 12.10.2015 by the petitioner within the stipulated time.

For Petitioner .. Mr.S. Arivazhagan

For Respondents .. Mr.P.Sanjay Gandhi
Addl. Govt. Pleader.

ORDER

The petitioner has come forward with this Writ Petition challenging the impugned notice dated 14.1.2016 issued by the 2nd respondent and for a consequential direction to the 1st respondent to dispose of the Revision Petition filed under Section 114(1) of the H.R. & C.E. Act on 12.10.2015 by the petitioner within the stipulated time as may be fixed by this Court.

2. Heard Mr.S.Arivazhagan, learned counsel appearing for the petitioner and Mr.P.Sanjay Gandhi, learned Additional

Government Pleader appearing for the respondents.

3. It is the case of the petitioner that the 2nd respondent Sri Pattinathar Temple owns a property at No.64, Ormes Road, Kilpauk, Chennai 600 010 measuring 6671 sq.ft. Inclusive of constructed portion measuring 6000 sq.ft. The petitioner was declared as highest bidder in the auction held on 14.5.2010 and in pursuant to which, the above said property was leased out to him. As the building situate in the said property is in dilapidated condition, the petitioner approached the Commissioner, H.R. & C.E., Chennai for demolition and reconstruction and the Commissioner has also granted permission on 20.4.2012, pursuant to which, a lease deed was also executed. The petitioner also have agreed to donate the entire superstructure to the temple and also accepted the rent fixed by the temple authorities.

4. According to the petitioner, the new building constructed by him is almost completed and plastering work is only left out. In the circumstances, the petitioner was surprised to receive the terminating notice issued by the 2nd respondent in Na.Ka.No.1/2014 dated 5.11.2014 directing the petitioner to vacate the premises due to expiry of lease, failing which, further action will be initiated under section 78(2) of the Hindu Religious and Charitable Endowments Act. Hence the petitioner filed petition vide R.P.No.12 of 2014 D2 under Section 21 of the Tamilnadu H.R & C.E. Act, 1959 against the notice dated 5.11.2014 issued by the 2nd respondent. The 1st respondent has passed an order dated 11.8.2015 dismissing the Revision Petition. Aggrieved against the same, the petitioner filed a Writ Petition in W.P.No.26782 of 2015 before this Court and the said Writ Petition was disposed of by this Court by granting liberty to the petitioner to exhasut the alternative remedy available to the petitioner under section 114 of the Tamilnadu Hindu Religious and Charitable Endowment Act and the petitioner was given four weeks from the date of receipt of a copy of the order to file the said revision and till such time, status quo was ordered on condition that the petitioner pays a sum of Rs.1,00,000/- to the 2nd respondent within a period of two weeks.

5. As per the direction made by this court, in W.P.No.26782 of 2015, the petitioner paid a sum of Rs.1,00,000/- to the 2nd respondent and also filed a revision before the 1st respondent under section 114(1) of Tamilnadu Hindu Religious and Charitable Endowment Act on 12.10.2015 and now the same is pending. Pending revision, the 2nd respondent has issued impugned notice dated 14.1.2016 calling upon the petitioner to hand over the premises to the 2nd respondent

forthwith. Hence the present writ petition has been filed.

6. The petitioner, who was a lessee under the 2nd respondent was permitted to put up construction during the currency of the lease. Thereafter, the proceedings dated 5.11.2014 was issued by the 2nd respondent for vacating premises, against which, the petitioner filed revision petition in R.P.12/2014 D2 and the said revision was dismissed on 11.8.2015. Aggrieved against the same, the petitioner filed W.P.No.26782 of 2015 before this Court, wherein, this court by an order dated 27.8.2015 directed the petitioner to approach the revisional authorities and ordered status quo on payment of a sum of Rs. 1,00,000/- . Accordingly, the petitioner remitted the said sum to the 2nd respondent and filed the revision in R.P.No.29 of 2016. Pending disposal of the said revision, the respondent issued the present impugned communication dated 14.1.2016 for handing over the premises to the 2nd respondent forthwith.

7. Learned counsel for the petitioner submitted that when the revision is pending before the authorities, it is not justifiable for the 2nd respondent to issue such communication which is impugned herein. He also submitted that it would be suffice, if the revision preferred by the petitioner in R.P.No.29 of 2016 is directed to be disposed of and in the meanwhile, the interest of the petitioner is also to be protected.

8. Considering the submissions made on both sides, in order to give quietus to this issue, the petitioner is directed to pay the arrears of rent on and from 27.8.2015 up to till date to the 2nd respondent temple within a period of three weeks from the date of receipt of a copy of this order and the impugned notice issued by the 2nd respondent shall be kept in abeyance, pending disposal of the revision petition in R.P.No.29 of 2016. The Revisional Authority is also directed to dispose the said Revision in R.P.No.29 of 2016 as expeditiously as possible.

9. With the above direction, this Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

msr

To

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2. The Fit Person/The Assistant Commissioner/
Executive Officer of
A/M. Pattinathar Thirukoil,
Thiruvotriyur,
Chennai 600 019.

+1 cc to Mr.S.Arivazhagan, Advocate, sr.3944

+1 cc to M/s.Government Pleader, sr.3799

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cnr co
kra 19.02.2016



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