

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2016

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.21492/2016 & WMP.Nos.18364 & 18365/2016

M.Murugan

..Petitioner

Versus

The Executive Officer
Arulmigu Thiruvalléeswarar
Thirukoil
Padi, Chennai-50.

..Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of certiorarified mandamus calling for the records connected with the Notice dated 03.06.2016 issued by the respondent and quash the same and direct the respondent allow the petitioner to continue in the petitioner's premises i.e, No.83, Ambedkar Street, Devar Nagar, Padi, Chennai-600050.

For Petitioner : Mr.S.Ilamvazhudhi
For Respondent : Mr.A.K.Sriram for
M/s.A.S.Kailasam Associates

ORDER

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

2 The petitioner would state that he is at present aged about 72 years and residing at No.83, Ambedkar Street, Devar Nagar, Padi, Chennai-50 and from the year 1970 onwards he is a tenant under the respondent - temple, and the said Tenancy Agreement came into being on 30.06.1980. According to him, at the time of leasing out the land, seven conditions were imposed to the petitioner and he did not violate any one of the conditions. The petitioner, in order to have a shade over his head, put up a superstructure in the year 1990 and he is residing with his family and also effected some repair works and at that juncture, the respondent - temple has issued the impugned notice on 03.06.2016, stating among other things, though the vacant land was leased out, without any proper permission, the superstructure has been put up and therefore, terminated his tenancy with effect from 18.06.2016 and called upon the petitioner to forthwith hand over the possession, failing which, he will be considered as an encroacher and further action u/s.78 of the Tamil Nadu Hindu Religious and

Charitable Act, 1959, will be initiated. The petitioner was also called upon to remit a sum of Rs.100/- per day from 19.06.2016 onwards and challenging the legality of the said order, the petitioner has filed the present writ petition.

3 Mr.S.Ilamvazhudhi, learned counsel for the petitioner would strenuously contend that though the vacant land was leased out to him, the petitioner in order to protect his family, has put up a superstructure and paying the land rent without any default, whatsoever and it is false to allege that he has started putting up a superstructure ; but what actually he is doing is only effecting repairs and on instructions, would further submit that he is ready and willing to pay the rent fixed for the superstructure also and prays for appropriate orders.

4 Per contra, Mr.A.K.Sriram, learned counsel, who accepts notice on behalf of the respondent - temple, would submit that admittedly, the petitioner started to put up a new construction without any planning permission and the Corporation of Chennai has also issued "Stop Work" notice and the petitioner, in utter violation of the terms and conditions of the same, is putting up superstructure and therefore, the impugned notice of termination has been issued to him and the remedy open to him, if any, is to respond to the said notice and prays for dismissal of the writ petition.

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

6 A perusal of the impugned notice dated 03.06.2016, prima facie appears to be a notice issued u/s.106 of the Transfer of Property Act, for which the petitioner is always at liberty to respond to the same. Though it is contended by the learned counsel for the petitioner that the petitioner is effecting only repair works and also willing to pay the rent for the superstructure, it can be put in the form of writing as a reply to the impugned notice to the respondent, who may consider the same, in accordance with law.

7 In the result, the writ petition is disposed of and the petitioner is at liberty to respond to the impugned notice dated 03.06.2016 by submitting a reply to the respondent within a period of two weeks from the date of receipt of a copy of this order and the respondent - temple, on receipt of the same, is directed to consider the said reply on merits and in accordance with law and pass orders within a further period of two weeks thereafter and communicate the decision taken, to the petitioner. Till then, the respondent - temple is

directed to defer further decision to evict/dispossess the petitioner. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(VI)

//True Copy//

Sub Assistant Registrar

AP

To
The Executive Officer
Arulmigu Thiruvalléeswarar Thirukoil
Padi, Chennai-50.

+1cc to M/s. S. Ilamvaludhi, Advocate, S.R.No.35239

+1cc to M/. A.S. Kailasams Associates Advocate, S.R.No.35099

RP(CO)
EU(27/06/2016)

W.P.No.21492/2016



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