

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.23409 of 2016

Mrs.P.Gomathi

.. Petitioner

Vs.

1.The Assistant Commissioner,
Assistant Commissioner Office,
Hindu Religious and Charitable Endowment
Department,
Chennai-600 034.

2.Arulmigu Sri Muthukumaraswamy Thirukoil,
Reptd. by its Trustee,
Park Nagar,
Chennai-600 003.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondent based on the petitioner's representation dated 28.06.2016 to allow the petitioner in the house situated at No.7, Thirupalli Street, Sowcarpet, Chennai-600 079, to take all belongings forthwith.

For Petitioner : Mr.S.Ramajayam

For Respondents : Mr.K.V.Dhanapalan,
Addl Government Pleader (HR&CE)

O R D E R

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

2. The petitioner would state that she along with her sons were permanently residing in the premises situated at No.7, Thirupalli Street, Sowcarpet, Chennai-600 079 for the past 50 years and originally, the lease of the premises was taken by her father-in-law and after his demise, she along with her family were in possession and enjoyment of the property. The petitioner would further state that initially the monthly rent was Rs.60/- p.m. and gradually increased and in the year 2004,

it was increased to Rs.550/- p.m. and during the month of March 2010, the second respondent attempted to dispossess the petitioner and therefore, the petitioner was constrained to file O.S.No.4482 of 2010 on the file of the 13th Assistant City Civil Court, Chennai praying for permanent injunction restraining the defendant/temple from evicting the petitioner only under due process of law and the said Suit, after contest, came to be dismissed on merits and no further challenge was made to the said judgment and decree and it has become final. The grievance expressed by the petitioner is that the second respondent, by invoking Section 79 of the HR&CE Act, affixed a copy of the proceedings on the outer door of the petitioner and without adhering to the relevant norms and regulations, had dispossessed the petitioner on 28.06.2016 and the petitioner, in this regard, has also submitted a representation dated 28.06.2016 to the respondents praying for permission to take back the articles/things inside the house and prays for further time to hand over the keys and since no response is forthcoming, came forward with this writ petition.

3. The learned counsel appearing for the petitioner, on instructions, would submit that it would be suffice to direct the second respondent to reopen the premises so as to enable the petitioner to take back the articles/things found inside the house and prays for appropriate orders.

4. Per contra, Mr.K.V.Dhanapalan, learned Additional Government Pleader (HR&CE), on instructions, would submit that the Suit filed by the petitioner for Permanent Injunction came to be dismissed on merits and no further appeal has been filed and the arrears payable by the petitioner as on today is Rs.1,13,215/-. It is the further submission of the learned Additional Government Pleader (HR&CE) that this Court may fix the date and time so as to enable the petitioner to remove the articles found inside the above said premises.

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

6. In the light of the above facts and circumstances, this Writ Petition is disposed of with a direction to the second respondent and the petitioner to be present on 06.07.2016 between 11.00 a.m. and 04.00 p.m. and thereafter, the second respondent shall remove the lock of the premises in question and permit the petitioner to take back/remove her things and the

second respondent shall also prepare an inventory of the articles removed and serve a copy on the petitioner, who shall acknowledge the receipt of the same. No costs.

jvm

s/d-

Assistant Registrar(CS-VII)

True Copy

Sub-Assistant Registrar

To

1.The Assistant Commissioner,
Assistant Commissioner Office,
Hindu Religious and Charitable Endowment Department,
Chennai-600 034.

2.The Trustee
Arulmigu Sri Muthukumaraswamy Thirukoil,
Park Nagar,
Chennai-600 003.

+ 1 cc to Mr.S.Ramajayam, Advocate SR 37756

+ 1 cc to Govt.Pleader SR 37827

mpI(co)
prk6/7

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