

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2016

CORAM:

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.33270 of 2012

and

M.P.No.1 of 2012

K.Govindhan ... Petitioner

Vs.

- 1.Joint Commissioner,
Department of Hindu Religious & Charitable Endowments,
Vellore.
- 2.Assistant Commissioner,
Department of Hindu Religious & Charitable Endowments,
Kancheepuram.
- 3.Executive Officer,
Arulmigu Chenganmalleeswarar Thirukkoil,
Having office at Thiruvidanthai. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of mandamus directing the respondents to permit the petitioner to continue the business in survey No.1387, in Door No.1/287, Old Mahapalipuram Road, Chenganmal, Kelampakkam, belonging to sengamalliswarar Thirukkoil and consequently to direct the 3rd respondent to determine the rents payable by the petitioner in accordance with relevant G.Os.

For Petitioner	: Mr.V.Subramanian
For Respondents	
1 and 2	: Mr. R.P. Prathap Singh for R1 & 2
For Respondent 3	: Mr.V.Raghavachari

O R D E R

Heard Mr.V.Subramanian, learned counsel for the petitioner and Mr.S.Kandaswamy, learned Special Government Pleader appearing for the respondents. With their consent, the writ petition is taken up for final disposal.

2.The petitioner, in this writ petition, seeks for issuance of a writ of mandamus to direct the respondents to permit the petitioner to continue the business in survey No.1387, in Door No.1/287, Old Mahapalipuram Road, Chenganmal, Kelampakkam, belonging to Sengamalliswarar Thirukkoil and consequently to direct the 3rd respondent to determine the rents payable by the petitioner in accordance with relevant G.Os.

3. The grievance of the petitioner is that the petitioner has been running an engineering industry in the name of "Devi Industry" in the leased premises situated at Survey Number 1387 in an extent of 21 cents. Admittedly, the said land belongs to the sengamalliswarar Thirukkoil, Chengalpat Taluk. According to the petitioner, the petitioner paid a rent to the managing trustee of the temple for the leased premises and he made a representation on 15.11.2006 to the 3rd respondent, requesting for determination of the rent as per relevant Govt.Orders in accordance with law. On 10.12.2012 at about 10.30 a.m., the Village Administrative Officer came to the factory and informed that eviction order has been passed by the 1st respondent against the petitioner under Section 78 of Hindu Religious & Charitable Endowments Act.

4. The learned counsel for the petitioner would further submits that no notice has been served and no eviction order has been passed on the petitioner. While so, the respondents are compelling the petitioner to vacate the premises. Hence, the petitioner filed the present Writ Petition before this Court.

5. The learned counsel for the first respondent has submitted that Arulmigu Chenganmaleeswarar Temple, situated at Chengammal Village, Thirupporur Taluk, Kancheepuram District is a listed temple published under Section 46(i) of the Tamil Nadu HR&CE Act. It is under the administrative control of the Joint Commissioner, HR&CE Department, Vellore. The said temple owns a property in S.No.1384 to an extent of 11 acres and in S.No.1387 to an extent of 10 acres. In the above lands, there are several encroacher put up construction and used the same as shops,

residential houses, etc. To streamline the administration and for better management, an Executive Officer was appointed to the said temple in the year 2009. After knowing the fact that there are 47 persons are in possession without any valid lease agreement with the temple administration and their occupation itself is illegal, a notice was issued to the said persons by the temple administration on 19.11.2010. But, those persons including the writ petitioner did not vacate and hand over the possession. Hence, eviction proceedings were initiated by the temple administration before this respondent i.e., Joint Commissioner, HR&CE, Vellore who is the competent authority to pass appropriate order. Therefore, the Writ Petition is not maintainable since writ petitioner has not challenged eviction order passed by the department. Therefore, the Writ petition is liable to be dismissed.

6. According to the learned counsel for the respondent would submit that the eviction order passed by the respondent was sent through the post, but the said post was returned with an endorsement that there was 'no such person' therein. An alternative remedy available to the petitioner provided under the Act, the copy of the impugned order also now available with the petitioner. Therefore, the petitioner has to file an revision before the authority under provision of Act. Hence, the above Writ Petition is liable to be dismissed.

7. Heard the submissions of the learned counsel for the petitioner and learned counsel for the respondents and also perused the materials placed before this Court.

8. In the light of the above, I am inclined to pass the following orders:-

(i) The petitioner is permitted to file revision before the Commissioner of Hindu Religious and Charitable Endowments Act under Section 21 of the Act against the order passed under Section 78 of the Act, within a period of two weeks from the date of receipt of a copy of this order.

(ii) On receipt of the above said revision, the Commissioner, Hindu Religious and Charitable Endowments Department shall consider the same on merits in accordance with law within a period of twelve weeks thereafter. Till such time, the interim order already granted by this court will continue

till the disposal of revision.

(iii) On instruction, both the parties undertakes before the court, they will co-operate for the enquiry before commissioner of Hindu Religious & Charitable Endowments Department.

With the above observations, the writ petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. Joint Commissioner,
Department of Hindu Religious & Charitable Endowments,
Vellore.
2. Assistant Commissioner,
Department of Hindu Religious & Charitable Endowments,
Kancheepuram.
3. Executive Officer,
Arulmigu Chenganmalleeswarar Thirukkoil,
Having office at Thiruvidanthai.

+1cc to Mr.V. Subramanian, Advocate, S.R.No.73203

+1cc to Mr.V. Raghavachari, Advocate, S.R.No.73369

pvs (CO)
md(19/01/2017)

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