

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.11.2016

CORAM

THE HONOURABLE Mr.JUSTICE B.RAJENDRAN

Writ Petition No. 31713 of 2016
and
W.M.P. No. 27528 of 2016

R. Balaji Murugan

.. Petitioner

Versus

1. The Joint Commissioner
Hindu Religious and Charitable Endowment Board
Villupuram

2. The Assistant Commissioner
Hindu Religious and Charitable Endowment Board
A/M.Padaleeswarar Thirukoil
Cuddalore

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondent to recognise the petitioner as a tenant based on the petitioner's representation dated 20.06.2016.

For Petitioner : Mr. C. Umashankar

For Respondents : Mr. M. Maharaja
Special Government Pleader

ORDER

The petitioner seeks for issuance of a Mandamus directing the respondents to recognise him as a statutory tenant by considering his representation dated 20.06.2016.

2. It is seen from the records that the Executive Officer of the second respondent temple has filed a suit in O.S. No. 386 of 2001 before the learned Principal District Munsif, Cuddalore for eviction of the father of the petitioner. The suit was decreed on 11.02.2003 against which the petitioner's father filed A.S. No. 35 of 2003 before the learned I Additional Subordinate Judge, Cuddalore and the same was also dismissed on 03.02.2004. As against the same, the petitioner's father filed Second Appeal No. 1851 of 2004 before this Court and the same

was also dismissed on 01.10.2004. When the execution proceedings have been initiated by the second respondent/temple, the petitioner has filed this writ petition to recognise him as a tenant in respect of the property of the temple measuring 200 square feet which is under his occupation where is running a fancy jewellery store.

3. It is evident from the above facts that when once the civil Court has granted a decree for eviction against the father of the petitioner which was also affirmed by this Court in the Second Appeal No. 1851 of 2004 on 01.10.2004, the present writ petition at the instance of the petitioner is not maintainable.

4. However, Mr. Umashankar, learned counsel appearing for the petitioner, on being instructed by the petitioner, who is present before this Court, would contend that if the petitioner is evicted, the second respondent temple would definitely lease out the property in question to some other third party, instead, the petitioner, as a worshipper of the second respondent temple, is prepared to pay more rent than the present rent of Rs.3,500/- per month which would augment the income of the second respondent temple. According to the learned counsel for the petitioner, the petitioner is prepared to pay a sum of Rs.10,000/- per month as rent as against the existing rent of Rs.3,500/- per month so that he can continue in the property in question by carrying out the fancy jewellery store. The learned counsel for the petitioner also submits that the petitioner is prepared to pay a sum of Rs.7,00,000/- (Rupees Seven Lakhs Only) as donation to the deity of the second respondent temple as a condition precedent for accepting his offer.

5. The learned Special Government Pleader would only contend that already execution proceedings have been initiated and it is pending before the Civil Court, while so, the relief sought for in this writ petition need not be considered. However, he would contend that in certain cases, the Commissioner of HR & CE Department has passed orders to accept the donation, if any, to be paid by the tenants as a condition precedent for permitting them to continue in the rented property.

6. Having regard to the above submissions made by the counsel for both sides, without expressing any opinion on merits of the claim made by the petitioner, the petitioner is directed to pay a sum of Rs.4,00,000/- (Rupees Four Lakhs Only) to the second respondent/temple within a period of four weeks from today and the balance sum of Rs.3,00,000/- (Rupees Three Lakhs Only) shall be paid within a period of three months thereafter. The petitioner shall pay the agreed sum of Rs.10,000/- per month as rent from 01.11.2016, which is excluding electricity charges and such rent shall be paid on or before 5th of every succeeding English Calendar month. It is also made clear that the

petitioner shall also pay enhanced rent of 5% every year to the second respondent temple. The petitioner is also directed to file an affidavit of undertaking before this Court within a period of three days from the date of receipt of a copy of this order. It is made clear that the respondents shall keep the execution proceedings in abeyance till such time the petitioner complies with the condition to deposit Rs.7,00,000/- as donation in the manner stated above. In the event of failure on the part of the petitioner to comply with the condition to pay the donation of Rs.7,00,000/- as indicated above or to pay the monthly rent in time, it is open to the respondents to continue the execution proceedings and take possession of the property in occupation of the petitioner forthwith as per the decree passed by the Civil Court which was confirmed by this Court in Second Appeal No. 1851 of 2004 on 01.10.2004. It is made clear that the decree is only kept under suspended animation for the time being and if the petitioner do not comply with the conditions imposed above, the decree shall stand revived automatically and the Execution Petition can be proceeded with.

7. In the above peculiar facts and circumstance of the case and having regard to the fact that portion of the premises under occupation of the petitioner is only 200 square feet and considering the fact that he is paying monthly rent at the rate of Rs.3,500/- per month and he is also ready to pay a sum of Rs.10,000/- as rent per month besides a donation of Rs.7,00,000/- to the temple, this order is passed and it need not be cited as a precedent.

8. Subject to the aforesaid direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The Joint Commissioner
Hindu Religious and Charitable Endowment Board
Villupuram

2. The Assistant Commissioner
Hindu Religious and Charitable Endowment Board
A/M.Padaleeswarar Thirukoil
Cuddalore

+1 cc to M/s.C.Umashankar Advocate sr 62625

WP.No. 31713 of 2016

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