

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2016

CORAM

THE HON'BLE MR. JUSTICE M.M.SUNDRESH

W.P.No.325 of 2016  
and WMP.No.235 of 2016

1.V.Thulasi

2.V.Kumar

3.V.Gopalakrishnan

4.V.Devarajan

5.V.Kokila

.... Petitioners

Vs.

1.The Commissioner,  
HR & CE Admn. Department,  
Chennai-34.

2.The Joint Commissioner,  
HR & CE Department,  
Chennai-34.

3.The Assistant Commissioner,  
HR & CE Department,  
Chennai-600 034.

4.The Executive Officer,  
Arulmighu Chenna Malleeswarar &  
Chenna Kesavaperumal Temple,  
No.85, Devaraja Mudali Street,  
Chennai-600 003.

.... Respondents

Prayer:Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus calling for the records of the first respondent, namely, The Commissioner, HR & CE, Admn. Department, Chennai-34 passed in R.P.No.35/2015, D-2 dated 16.09.2015 and to quash the same and consequently, direct the respondents to recognize the petitioners as tenants for the premises bearing No.33, Chenna Kesavaperumal Koil Street, Choolai, Chennai-600 112.

For Petitioners : Mr.J.Ram

For Respondent : Mr.K.V.Dhanapalan,  
Nos.1 to 4 Addl. Govt. Pleader

O R D E R

The petitioners are encroachers as per Hindu Religious and Charitable Endowments Act. In pursuant to the termination of lease as early as on 23.02.2009, proceedings under HR & CE Act has been initiated. Revision filed by the petitioners ended in dismissal. Thereafter, the present Writ Petition is filed.

2. Heard the learned counsel for the petitioners as well as the learned counsel for the respondents.

3. The learned counsel for the petitioners submitted that the lease was granted in respect of the land belonging to the fourth respondent/temple which measures to an extent of about 1180 sq.ft. in S.No.2127 bearing Door No.33, Chenna Kesavaperumal Koil Street, choolai, Chennai in favour of one Lakshiammal, who is the mother-in-law of the first petitioner and grandmother of the petitioners 2 to 5. He would submit that after the demise of Lakshmiammal, his son namely, P.Varadharajan was in possession of the said premises along with his family and he died of illness. He further submitted that now, the petitioners are residing there along with their family and they are sought to be evicted as a course of other proceedings.

4. The learned Additional Government Pleader appearing for the respondents submitted that the tenancy has been terminated as early as 23.02.2009 and the same was not challenged by the petitioners though there is an alternative remedy available, therefore, no interference is called for.

5. Admittedly, the tenancy was terminated by issuance of notice. Thereafter, the status of the petitioners got changed. Even assuming that the petitioners could be considered as tenants as subsequent rents have been paid by them, as the original tenancy was in the name of the above said Lakshmiammal, this Court does not find any merit in the case. However, considering the facts and circumstances of the case, especially, the petitioners are residing in the above said premises for several decades, till the said premises is leased out by way of an auction, the petitioners shall be permitted to continue to reside in the said premises. The respondents shall conclude the auction and lease the property, within a period of six months from the date of receipt of a copy of this order. Till such time, the petitioners shall be allowed to continue, subject to condition that they shall continue to pay the rent which is being paid by them without any dues. It is also made clear that it is well open to the petitioners to take part in the proposed auction meant for the purpose of lease.

6.With the above observation and direction, this Writ Petition is disposed of. Consequently, connected Miscellaneous Petition is also closed. No costs.

Sd/-  
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

DP

To

- 1.The Commissioner,  
HR & CE Admn. Department,  
Chennai-34.
- 2.The Joint Commissioner,  
HR & CE Department,  
Chennai-34.
- 3.The Assistant Commissioner,  
HR & CE Department,  
Chennai-600 034.
- 4.The Executive Officer,  
Arulmighu Chenna Malleeswarar &  
Chenna Kesavaperumal Temple,  
No.85, Devaraja Mudali Street,  
Chennai-600 003.

+1 cc to Mr.J.Ram, Advocate, sr.1169  
+1 cc to Government Pleader, sr.1350

ca co  
kra 25.01.2016

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