

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2016

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

W.P.No.37433/2016 &

W.M.P Nos.32035 & 32036 of 2016

P.Sathya

... Petitioner

Vs.

1. The Joint Commissioner of HR & CE,
Salem Kottai Mariammal Koil Compound,
Salem - 636 001.

2. The Assistant Commissioner/Executive Officer,
Arulmighu Sugavaneshwaraswamy Thirukoil,
Salem - 636 001.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified mandamus to call for the records in respect of the notification dated 14.10.2016 in Na.Ka.No:878/2016 A1 issued by the second respondent and quash the same consequently direct the respondents to allot 2 shops to the petitioner in respect of shops constructed by the Arulmigu Sugavaneshwararswamy Thirukovil authorities at T.S.No:2, B Block 28, Salem Town.

For Petitioner : Mr.D.Rajagopal

For Respondents : Mr.A.Kumar
Spl. Government Pleader

ORDER

Heard the learned counsel for the petitioner and Mr.A.Kumar learned Special Government Pleader who accepts notice on behalf of the respondents 1 and 2 and with the consent on either side, the writ petition is taken up for final disposal.

2. The case of the petitioner is that the petitioner took two shops bearing Door Nos.167 and 168 for business purpose in a public auction which was conducted by the temple authorities on 16.06.2003. The petitioner further submits that with the permission of the respondent, the petitioner has carried out repair works and spent a total sum of Rs.1,05,000/- towards repair and construction

work of the said shops. Subsequently, the petitioner also obtained electricity connection to the said shops and she was in possession and enjoyment of the shops on payment of rent to the shops regularly. While so, in November 2005, the respondent officials informed the petitioner that they are going to demolish the entire building and they promised to provide new shops to the petitioner after construction of new building. After construction of the new building, the petitioner approached the respondents to allot two shops as promised by them earlier. As they have given evasive reply, the petitioner issued a legal notice to the respondents on 23.12.2015 and the respondents have not given any reply for the said legal notice. Therefore, the petitioner filed a suit in O.S.No.83 of 2016 before the District Munsif, Salem, for mandatory injunction to allot two shops and not to allot those shops to third persons along with I.A.No.183 of 2016 for interim injunction. The interlocutory application filed by the petitioner was closed on the ground that the prayer in the suit and the interlocutory application are one and the same and the said suit is pending. After the above said order of the District Musif, Salem, the respondents issued a notification on 14.10.2016 calling for auction cum tender and fixed the date for opening of tender on 26.10.2016. Hence, the petitioner has come forward with the present Writ Petition.

3. According to the petitioner, even before the expiry of her lease period, the petitioner was made to vacate the leased out premises and the property was demolished way back in the year 2005. Thereafter, the respondents have put up a new construction and they are proposed to bid public auction for the newly constructed shops. As such, the respondents cannot be stalled or stopped on the ground of an oral assurance given by the officials of the respondent. Moreover, it is the subject matter of the suit and hence, this Writ petition is liable to be dismissed.

4. Accordingly, this Writ Petition is dismissed with a direction to learned District Munsif, Salem to dispose of the civil suit in O.S.No.83 of 2016 as expeditiously as possible. No costs. Consequently, the connected miscellaneous petitions are closed.

-sd/-

Assistant Registrar

/ TRUE COPY /

Sub-Assistant Registrar

vrc
To

1. The Joint Commissioner of HR & CE,
Salem Kottai Mariyammal Koil Compound,
Salem - 636 001.

2. The Assistant Commissioner/Executive Officer,
Arulmighu Sugavaneshwaraswamy Thirukoil,
Salem - 636 001.

3. The District Munsif,
Salem.

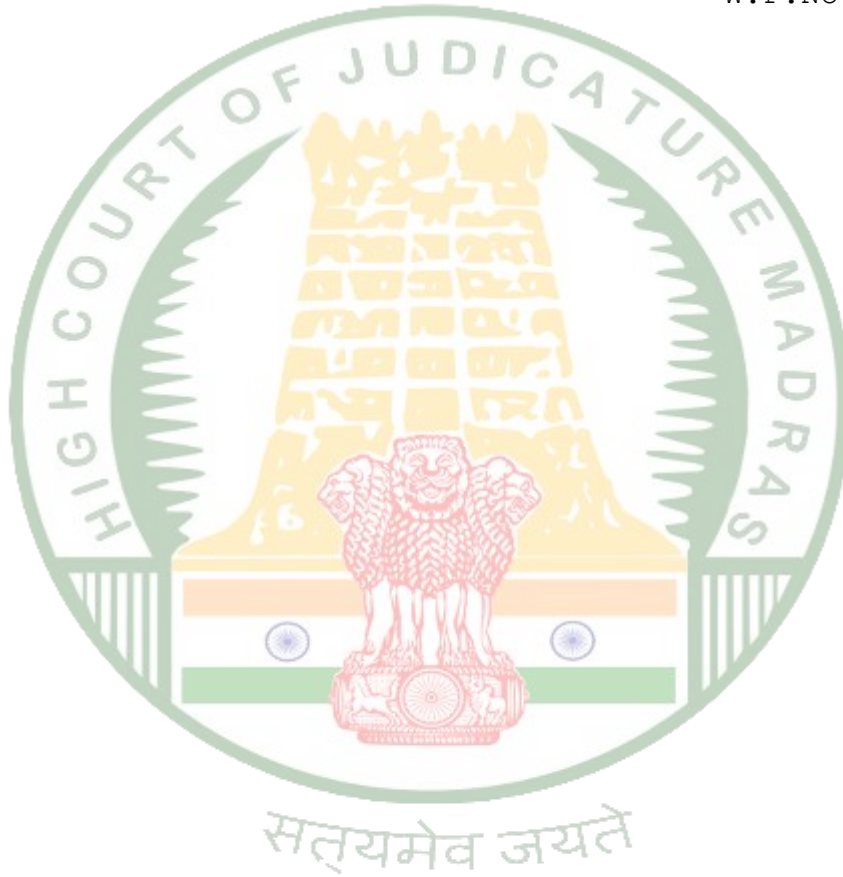
+1 cc to MR.D.RAJAGOPAL Advocate SR.NO. 61239

+1 cc to Government pleader SR.NO. 60997

W.P.No.37433/2016

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RD 12/11/2016



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