

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2016

CORAM

THE HON'BLE MR.JUSTICE B.RAJENDRAN

W.P.Nos. 38348 and 38349 2016 and

WMP Nos. 32863 and 32864 of 2016

Mermaid Properties Pvt., Ltd.,
rep. By its Director,
P.Ramachandran,
1-C, JVL Towers, New No.51,
Nelson Manickam Road,
Chennai - 600 029 ... Petitioner in both the
petitions

Vs.

- 1.The Secretary
Hindu Religious and Endowment Department,
Fort St. George,
Secretariat, Chennai - 600 009
2. The Commissioner,
HR&CE Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai - 600 034
3. The Executive Officer,
Arulmigu Nithya Kalyana Perumal Temple,
Thiruvadanthai,
Kancheepuram District ... Respondents in both the
petitions

Prayer in W.P.No.38348 of 2016

Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorari calling for the records of the 2nd respondent vide Na.Ka.No.16695/2016V-2 dated 21.06.2016 and quash the same as it is against the Rule of Law and Principle of Natural Justice as such order has been passed without taking into consideration the orders of the 1st respondent in G.O.(D) No.177 dated 08.06.2007 for the schedule mentioned property morefully described in the petition.

Prayer in W.P.No.38349 of 2016

Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the 1st respondent for renew of the lease with increased rent amount from 01.11.2016 for a period of three years with proportionate increase on the lease rent for the property morefully described in the petition.

For Petitioner :Mr.P. Subba Reddy

For Respondents :Mr.M.Maharaja
Special Government Pleader
for HR&CE

O R D E R

The Writ Petition No.38348 of 2016 has been filed challenging the order dated 21.06.2016, as the same is against Rule of Law, principles of natural justice and without considering the earlier Government Order dated 08.06.2007, which was passed granting the petitioner 22 cents of land to upkeep the lawn and passage.

2. The Writ Petition No.38349 of 2016 has been filed to direct the 1st respondent for renewing the lease with increased rent amount from 01.11.2016 for a period of three years with proportionate increase on the lease rent for the property.

3. According to the petitioner, they are maintaining the property for a long time. Eventhough the lease period was expired in the year 2010 and the same was not extended, the petitioner company is maintaining the property. Thereafter, the petitioner company has sought for renewal, the Commissioner has directed the Executive Engineer to pass orders granting only 400 Sq.Ft., in Survey no.96/1, which belongs to temple and to pay a sum of Rs.5,000/- as rent to the temple. The grievance of the petitioner is that though there is no renewal right from the year 2010, they have maintained the lawn for a quite long time, which is adjacent to their property and now, they cannot be thrown out, hence they would contend that the impugned order is not correct.

4. The learned Special Government Pleader appearing for the respondents would point out that by virtue of petitioner's occupation in respect of a property in Survey No.96/1 for the extent of 22 cents, there is no passage for getting water for the purpose of agriculture. Hence he would contend that the impugned order passed by the 2nd respondent does not warrant

interference at the hands of this Court.

5. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondents.

6. A careful perusal of the impugned order reveals three points. The first point is that there are no renewal right from the year 2010. Though admittedly the petitioner have made some request for renewal, the renewal was not sanctioned. The second point is that the property in question, even according to the petitioner is needed only for the passage. The passage has admittedly been given. The third point is that the property is owned by the temple and that there has been criminal compliant against the petitioner that they have used JCB to fill-up the gap. Therefore, rightly the authority has taken into consideration and passed the impugned order.

7. Admittedly, even as per original Government order dated 08.06.2007, the lease is only for a period of 3 years. It was given in the year 2007 and it has expired in 2010 itself. Merely because the petitioner company has maintained lawn and that too to augment their income for their resort, they cannot utilise the government property even now after the expiry of lease. Further, taking note of the submission of the learned Special Government Pleader appearing for the respondents that since by virtue of the petitioner's occupation, there is no passage for getting water for the purpose of agriculture and thereby there has incurred loss to the income of the temple, this Court is of the view that the order passed by the authority is very reasonable.

7. Considering all the above aspects, I find no reason to interfere with the order passed by the 2nd respondent and hence these Writ Petitions are dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssd

To

1. The Secretary
Hindu Religious and Endowment Department,
Fort St. George,
Secretariat, Chennai - 600 009
2. The Commissioner,
HR&CE Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai - 600 034
3. The Executive Officer,
Arulmigu Nithya Kalyana Perumal Temple,
Thiruvadanthai,
Kancheepuram District

+1cc to Mr.P. Subba Reddy, Advocate, S.R.No.62786
+1cc to the Government Pleader, S.R.No.63102

sm (CO)
md (18/11/2016)

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