

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.11.2016

CORAM

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

WP.No.41357/2016

J.Suresh Kumar rep.by
Power Agent R.C.Mini

... Petitioner

Versus

1.The Commissioner
Hindu Religious & Charitable
Endowment Board, Nungambakkam
Chennai 600 034.

2.The Joint Commissioner,
Hindu Religious & Charitable
Endowment Board, Nungambakkam
Chennai 600 034.

3.The Executive Officer
Arulmighu Dhandeeswarar Thirukoil
Velachery, Chennai 600 042.

..

Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the 2nd respondent herein to pass final orders in the enquiry conducted by the 2nd respondent in Na.Ka.No.14253/2008 u/s.78[2] of the Act within the time limit to be fixed by this Court.

For Petitioner :

Mr.R.Krishna Prasad

For RR 1 to 3 :

Mr.M.Maharaja, Spl.GP [HR&CE]

ORDER

Heard the learned counsel for the petitioner and Mr.M.Maharaja, learned Special Government Pleader [HR&CE] who accepts notice on behalf of the respondents and with the consent on either side, the writ petition is taken up for final disposal.

the uncle of the Power Agent was a statutory tenant under the 3rd respondent / temple under a Lease Deed from the year 1973 in respect of the land measuring to an extent of 2340 sq.ft., in S.No.129, Door No.7, Karunambigai Colony, Chennai, and that he was regularly paying the rent. Since he fell ill, he went to Kerala for treatment in the year 2000 and he had parted with the responsibility of paying rents regularly to one Karunakaran and to take care of the property. The petitioner's uncle had also intimated the respondents about his residing at Kerala for treatment and also given the residential address at Kerala for communication. In the interregnum, taking advantage of the absence of the petitioner's uncle, the said Karunakaran constructed a multi-storeyed building in the land without the consent of the respondents as well as the petitioner's uncle. Subsequent to the death of the said Karunakaran, one Vinoth Kumar, claiming to be the son of Karunakaran filed a suit in OS.No.5672/2013 on the file of the XIII Assistant City Civil Court, Chennai, against the petitioner as well as against the respondents herein praying for declaration and for permanent injunction. Upon receipt of the documents, the petitioner's uncle came to know that the 2nd respondent has issued two show cause notices u/s.78[2] of the Tamil Nadu Hindu Religious and Charitable Endowment Act, dated 03.12.2008 and 26.08.2013 respectively to the petitioner's uncle mentioning the residential address at Chennai. Thereafter, the uncle of the petitioner filed WP.No.30455/2015 to consider his representation after giving him an opportunity of personal hearing to him. The said writ petition was disposed of on 06.10.2015. Purusant to which, the petitioner entered appearance through a counsel and was shocked to note that notice u/s.78[2] of the Act was issued to the petitioner and the same was communicated to the residential address at Chennai. Subsequently, the petitioner filed WP.No.32204/2015 before this Court seeking direction upon the Corporation of Chennai, to take action against the illegal construction of the multi-storeyed building in the temple land by the said Karunakaran. The said writ petition was disposed of on 09.10.2015 directing the Joint Commissioner, South, Corporation of Chennai, to take action against the alleged encroachment and take appropriate action on merits and in accordance with law, if it was found that the same is unapproved and without authority of law. It is the further case of the petitioner that the petitioner as well as the said Vinoth Kumar had appeared in person before the 2nd respondent and participated in the enquiry and after hearing the arguments advanced on either side, the 2nd respondent had posted the matter for orders without specifying the date. It is the grievance of the petitioner that though the enquiry u/s.78[2] of the Act was completed as early as on 23.08.2016 itself, no orders have been passed by the 2nd respondent till date and hence, the petitioner has come forward to file the present writ petition.

3 Considering the limited scope of prayer sought for by the petitioner, this Court, in the light of the above facts and circumstances and without going into the merits of the same, directs the 2nd respondent to pass final orders in the enquiry conducted u/s.78[2] of the Act in Na.Ka.No.14253/2008 within a period of two months from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner as well as to the said Vinoth Kumar.

4 The writ petition stands disposed of with the above direction. No costs.

Sd/-

Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

To

- 1.The Commissioner
Hindu Religious & Charitable
Endowment Board, Nungambakkam
Chennai 600 034.
- 2.The Joint Commissioner,
Hindu Religious & Charitable
Endowment Board, Nungambakkam
Chennai 600 034.
- 3.The Executive Officer
Arulmighu Dhandeeswarar Thirukoil
Velachery, Chennai 600 042.

+1 cc to M/s.Sarvabhauman associates,sr.68595

+1 cc to Govt.Pleader,sr.69247.

nm(co)
krd 20/12

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