

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.8017 of 2016  
and WMP.No.7123 of 2016

K.Rajasekar

... Petitioner

Vs

The Commissioner  
Hindu Religious and Charitable Endowment Board  
Nungambakkam, Chennai-34.

2.The Joint Commissioner  
Hindu Religious and Charitable Endowment Board  
Nungambakkam, Chennai-34.

3.The Executive Officer  
Sri Malleswarar & Chennai Kesava Perumal Koil  
No.85, Devaraj Mudalai Street,  
Sowcarpet, Chennai-79.

... Respondents

Writ Petitions are filed under Article 226 of the Constitution of India to issue a Writ of mandamus to direct the respondents herein to regularize the petitioner as a allottee for the property situated at Old No.28/1, New No.29/11, Perumal Koil Garden 6<sup>th</sup> Lane, Sowcarpet, Chennai-79.

For Petitioner : Mr.R.Ramesh

For Respondents : Mr.K.V.Dhanapalan, AGP (HR&CE)

सत्यमेव जयते  
O R D E R

With the consent of both sides, the Writ Petition is taken up for final disposal.

2.The petitioner has come forward with the present Writ Petition seeking for issuance of mandamus to direct the respondents herein to regularize the petitioner as a allottee for the property situated at Old No.28/1, New No.29/11, Perumal Koil Garden, 6<sup>th</sup> Lane, Sowcarpet, Chennai-79.

3.The petitioner submits that he is residing at Old.No.28/1, New No.29/11, Perumal Koil Garden, 6<sup>th</sup> Lane, Sowcarpet, Chennai-79, from 1997 onwards. One David s/o.Karsala Kondaiah let out

the said property in favour of the petitioner's father. The petitioner's parents are residing in the ground floor and the petitioner, his wife and children are residing in the first floor of the property. The petitioner is regularly paying property tax, water and drainage tax and also paying the electricity charges to the concerned authorities till date.

4.Originally the 3<sup>rd</sup> respondent made allotment in favour of father of David i.e, Karsala Kondaiah, and inspite of the said allotment he was not residing in the said property and he is residing in Andra Pradesh. The said David and grand children are born and brought up at Andhra Pradesh. The petitioner and his parents are residing in the said property for more than twenty years. The revenue records stands in the name of said David, after the demise of David, the petitioner and his parents are regularly paying the rent to the legal heirs of David i.e, (1)Mrs.Mylavarapu Isther Rani w/o.Devadanam and (2)Mr.Kethupalli Kruparao s/o.Devadanam. During 2008, the legal heirs of David informed that since they are residing in Andhra Pradesh, they will not come and collect the rent every month and asked the petitioner to pay a lumpsum amount to them. Accordingly, the petitioner has also paid the same. Now the legal heirs are asking to vacate and handover the property to them, stating that they are going to sell the property to third party. At the same time, the second wife of David and her children are also asking the petitioner to vacate the property, both the parties are disturbing the petitioner and his family members frequently and trying to take over possession illegally.

5.Whileso, the HR&CE Board has put up a notification in the temple premises wherein it is stated that the persons who are in the actual possession of the property by paying arrears of rent to the temple can register their name. On such registration they will be treated as tenant. The petitioner approached the 3<sup>rd</sup> respondent to consider him as a tenant in the said property and agreed to pay the arrears of rent, if any, due to the temple and also assured that he will pay the rent regularly without fail.

6.On 28.02.2014, the petitioner sent a representation to the respondents 1 and 3 to consider his request to regularise his portion of the property treating him as a tenant of the temple. Again on 23.12.2014, the petitioner submitted an application to the respondents 1 and 3, to transfer the name of allotment in favour of the petitioner. But, till date the request of the petitioner was not considered, hence, the petitioner filed the present writ petition.

7.Heard the submissions of learned counsel appearing for the petitioner and the learned Additional Government Pleader (HR & CE) who accepts notice on behalf of the respondents.

8.Considering the facts and circumstances and without going into the merits of the same, this Court directs the third respondent to consider the petitioner's representation/application dated 28.02.2014 and 23.12.2014, on merits and in accordance with law, within a period of eight weeks, from the date of receipt of a copy of this order, it is for the third respondent to pass appropriate orders, after affording opportunity of personal hearing to the petitioner as well as to the necessary parties, if any. It is made clear that this Court has not expressed any opinion on the merits of the claim of the petitioner.

9.The writ petition is disposed of accordingly. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-  
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

The Commissioner,  
Hindu Religious and Charitable Endowment Board,  
Nungambakkam, Chennai-34.

2.The Joint Commissioner,  
Hindu Religious and Charitable Endowment Board,  
Nungambakkam, Chennai-34.

3.The Executive Officer,  
Sri Malleswarar & Chennai Kesava Perumal Koil,  
No.85, Devaraj Mudalai Street,  
Sowcarpet, Chennai-79.

+1cc to Mr.R.Ramesh, Advocate, S.R.No.13506  
+1cc to the Government Pleader, S.R.No.14528

W.P.No.8017 of 2016

ala(CO)  
srg(21/03/2016)