

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.9316 of 2016
and
WMP.No.8304 of 2016

A.Sureshkumar

... Petitioner

vs.

1.The Joint Commissioner,
Hindu Religious and
Charitable Endowment Board,
Chennai 600 034.

2.The Executive Officer,
Arulmighu Rathina Vinayagar
and Durgaiamman Thirukoil
Whites Road,
Chennai 600 014.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the first respondent to furnish immediately a certified copy of his order dated 16.02.2016 in his proceedings Na.Ka.No.4570/2009/A2 dated 29.01.2016 to the petitioner or his advocate who has already filed copy application within the time which may be stipulated by this court.

For Petitioner : Mr.V.Raghupathi

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

ORDER

The petitioner has come up with the present writ petition for a mandamus, directing the first respondent to furnish a certified copy of the order dated 16.02.2016 pertaining to the proceedings in Na.Ka.No.4570/2009/A2 dated 29.01.2016, to the petitioner or his advocate, who has already filed a copy application, within the time stipulated by this court.

2. It is the case of the petitioner that the land measuring 1200 sq.ft. bearing Door No.36 (Old No.47) Whites Road, Chennai-14, belonging to the second respondent temple Devasthanam, was taken on lease under a lease deed dated 29.12.1970 by his father and the rent for the land was fixed at Rs.7.50 per month and subsequently it was enhanced at Rs.18,240/- per month. The petitioner raised construction on the land out of his own funds and paid all the taxes due to the Government till date. While so, he was served with a notice issued by the first respondent under Section 78(2) of the Tamil Nadu Hindu Religious and Charitable Endowment Act (herein after shortly referred to as 'Act'). Accordingly, the petitioner along with his counsel appeared before the first respondent and submitted his written explanation along with supporting documents. It is the specific case of the petitioner that since the appeal filed under Section 34-A(3) of the Act, challenging the unilateral enhancement of rent to the temple land, is pending, the present proceedings under Section 78(2) of the Act is not at all maintainable. However, the first respondent appeared to have passed an interim order dated 16.02.2016, directing the petitioner to pay a sum of Rs.21,00,000/- on or before 17.03.2016. Though the petitioner through his counsel requested the first respondent to furnish a certified copy of the order dated 16.02.2016, the same is yet to be provided, which compelled him to file the present writ petition for the above stated relief.

3. When the matter came up for consideration, the learned Additional Government Pleader (HR&CE) appearing for the respondents submitted that as per the proviso to Section 34-A (3) of the Act, it is a condition precedent to deposit the entire lease rent for invoking appeal remedy by the petitioner.

4. Whereas, the learned counsel for the petitioner submitted that now the petitioner sought for only a certified copy of the order dated 16.02.2016, for which, there is no precondition of deposit.

5. Considering the submission made on either side, without going into the merits of the case, this Court directs the first respondent to furnish a certified copy of the order dated 16.02.2016 to the petitioner, on merits and in accordance with law, within a period of one week from the date of receipt of a copy of this order.

6. The writ petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Joint Commissioner,
Hindu Religious and Charitable Endowment Board,
Chennai 600 034.

2.The Executive Officer,
Arulmighu Rathina Vinayagar and Durgaiamman Thirukoil
Whites Road,
Chennai 600 014.

+1cc to M/s. V. Raghupathi, Advocate, S.R.No.16407

SNS (CO)
EU (15/03/2016)

W.P.No.9316 of 2016

सत्यमेव जयते
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