



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.03.2016

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P (MD) .No.493 of 2016 (PD)
and
C.M.P. (MD) .No.2132 of 2016

T.Mohan

.. Petitioner

Vs.

1. The Commissioner
HR& CE., Department,
Chennai - 600 034.

2. The Joint Commissioner,
HR & CE Admn., Department,
Madurai-625 001.

3. The Assistant Commissioner /Exe. Officer,
Arulmigu Koodalagar Temple,
Madurai - 625 001.

.. Respondents

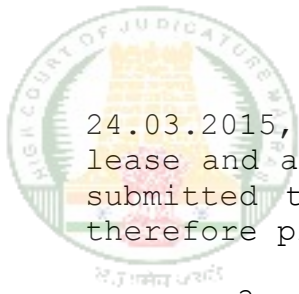
Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order passed in R.P.No.131 of 2015 (D2) dated 12.01.2016 by the Commissioner, HR & CE, Admn., Department, Chennai.

For Petitioner : Mr.M.Sridher

ORDER

This Civil Revision Petition is filed against the order dated 12.01.2016, made in R.P.No.131 of 2015 by the Commissioner , HR & CE, Admn., Department, Chennai.

2. The petitioner was the lessee of Mandapam situated at Arulmigu Koodal Azahar Thirukovil, Madurai South Taluk, Madurai District. The said lease was granted for the period from 01.06.2006 to 31.05.2009. Subsequently, the lease was not extended. The petitioner requested extension of lease. The respondent did not extend the lease and issued notice on 22.07.2009 and 30.04.2014 to surrender the possession. The petitioner did not surrender. Therefore, the third respondent requested the second respondent to take action to evict the petitioner. The second respondent inspected the suit property on 19.11.2014 and gave a report stating that the petitioner is in occupation of property even after expiry of lease and therefore he is an encroacher as per the provisions of Section 78 of the Tamilnadu Hindu Religious and Charitable Endowments Act, 1959. Subsequently, notice was issued under Section 78(2) of the said Act to the petitioner. The petitioner appeared in person on



24.03.2015, before the Joint Commissioner and requested extension of lease and agreed to pay the lease amount to be fixed by the authority. He submitted that huge amounts were invested for carrying on business and therefore prayed for extension of lease.

3. The second respondent considering the facts and materials on record and ordered eviction and directed the petitioner to surrender of possession within 30 days from the date of receipt of that order.

4. The petitioner filed a petition in W.P.(MD).No.18109 of 2015 for Writ of Mandamus, forbearing the Assistant Commissioner, HR&CE Department from initiating any action in furtherance of his notice dated 18.09.2015 in his proceedings Na.Ka.No.4285/2014-1/Aa.1, till the disposal of Statutory Revision filed by the petitioner pending in R.P.No.131/2015D2 on the file of first respondent.

5. The said writ petition was disposed of directing the first respondent, to dispose the statutory revision filed by the petitioner pending in R.P.131 of 2015D2, within a period of three weeks from the date of receipt of a copy of that order, after affording an opportunity of personal hearing to the petitioner and the respondent is directed to maintain *Status quo* as on date.

6. The first respondent after considering the facts and materials available on record on merits, rejected the revision filed by the petitioner. Against the said rejection order, the petitioner has come up with this Civil Revision Petition.

7. The learned counsel for the petitioner contended that the first respondent failed to take note that the second respondent failed to follow the mandatory provisions of Section 78 of Tamilnadu Hindu Religious and Charitable Endowments Act, 1959. The property in question is Kalmandapam, which was not used by the temple for a long time. There was no electricity connection and miscreants were misused the same. The petitioner, after getting proper lease from the authority concerned, was using the same as parcel office and paid rent regularly. After expiry of lease period, the petitioner was paying 15% of enhancement rent. The department openly threatened the petitioner to evict forcefully. He filed a Suit in O.S.No.694 of 2016 for permanent injunction restraining the respondents and the same is pending. The authorities wrongly termed the petitioner as encroacher/tress passer. He further submitted that the first respondent considered new points raised in the revision petition, which were not mentioned in the earlier notice.

8. Heard the learned counsel for the petitioner and perused the materials available on record.

9. From the records, it is seen that originally, the lease granted in favour of the petitioner was not extended after expiry of lease period on 31.05.2009. Therefore, as per provisions of the Tamilnadu Hindu Religious and Charitable Endowments Act, 1959, the petitioner is an encroacher. Further the third respondent has stated that the Kalmandapam is opposite to the temple and the petitioner is using the same as parcel office. Number of lorries are parked in the road side, which cause hardships to the devotees and the general public. He also stated that the



said Mandapam is required for temple to keep the functions of the temple and for the purpose of the temple activities. The request of the petitioner for extending lease was not accepted for the above reasons. The second respondent followed the procedure as per Section 78 of the Tamilnadu Hindu Religious and Charitable Endowments Act, 1959, and considering all these materials, ordered the petitioner as an encroacher and directed the petitioner to surrender the vacant possession to the temple. The revision filed by the petitioner was considered by the first respondent on merits and the same was rejected. The first respondent has given cogent and valid reasons for rejecting the revision and confirming the order passed by the second respondent. There is no irregularity or illegality in the said order, warranting interference of this Court. Accordingly this Civil Revision Petition is dismissed. No Costs. Consequently, connected Miscellaneous Petition is closed.

10. Accordingly, this Civil Revision Petition is dismissed. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To

1. The Commissioner
HR& CE., (Admn) Department, Chennai - 600 034.
2. The Joint Commissioner,
HR & CE Admn., Department, Madurai-625 001.
3. The Assistant Commissioner /Exe. Officer,
Arulmigu Koodalagar Temple,
Madurai - 625 001.

PJL
TE/JGB-DP/ : 21/03/2016 : 3P/4C

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