



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 15.12.2016

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THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P(MD)No.24000 of 2016

and

W.M.P(MD)Nos.17315 and 17316 of 2016

Sivathanu Pillai

..Petitioner

Vs

1. The Deputy Commissioner/Executive Engineer,
Incorporated and Unincorporated Devasanams,
Suchindrum, Kanyakumari District.

2. The Tahsildar,
Thovalai Taluk,
Kanyakumari District.

3.Chellaperumal Pillai

4.Moorthy

..Respondents.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the first respondent to repay the rent amount collected by the first respondent for the past 52 years with interest and consequently to forbear the first respondent from demanding or collecting any further rent in respect of S.No.477/6, in Eraichikulam Village, Thovalai Taluk, Kanyakumari District.

For Petitioner : M/s.Niranjana S.Kumar

For Respondent-1 : Mr.K.Sathiya Singh
Standing Counsel

For Respondent-2 : Mr.T.S.Mohammed Mohideen
Addl.Govt.Pleader

ORDER

This Writ Petition is filed seeking for a mandamus directing the first respondent to repay the rent collected from the Petitioner for the past 52 years with interest and consequently to forbear the first respondent from demanding or collecting any further rent in respect of the property at S.No.477/7, in Eraichikulam Village, Thovalai Taluk, Kanyakumari District.



2.Mr.K.Sathiya Singh, learned Standing Counsel takes notice for the first respondent and Mr.T.S.Mohammed Mohideen, learned Additional Government Pleader takes notice for the second respondent.

3.By consent of both parties, the main Writ Petition is taken up for disposal, at the admission stage itself.

4.Admittedly, the Petitioner is only a cultivating tenant in respect of the property in question and was paying the rent all along to the first respondent/Temple. It is also seen that when a demand for payment of rental arrears was made earlier, the Petitioner approached this Court and filed W.P(MD)No.6070 of 2005 challenging such demand and the said Writ Petition came to be dismissed on 22.10.2007. It is further seen that the Writ Appeal filed by the Petitioner in W.A(MD)No.720 of 2007 challenging the order of the learned Single Judge also came to be dismissed on 12.12.2007.The Division Bench while dismissing the Writ Appeal has also observed that it is open to the petitioner to approach the Deputy Commissioner/Executive Officer for fixation of fair rent and such fixation will have to be done only with prospective effect. It is also observed by the Division Bench that the Temple is at liberty to proceed against the Petitioner for recovery of past arrears under the Revenue Recovery Act.

5.Now, after six years from the date of the order passed in the Writ Appeal, the Petitioner has approached this Court by filing the present Writ Petition claiming that the Temple is not the owner of the property, based on an information obtained under the Right to Information Act. However, it is not the case of the petitioner that he is the owner of the property. On the other hand, it is his contention that the third respondent herein is the owner of the property with whom he entered into an agreement for payment of rent. I do not think that the Petitioner is justified in filing the present Writ Petition based on an understanding said to have been arrived between him and third respondent in respect of the property for which he is paying the rent for the past 52 years to the first respondent/Temple and this Court has also dismissed the earlier round of litigation filed by the petitioner challenging the collection of rent. Therefore, I find that the present attempt of the Petitioner is nothing but to stall the collection of the rent from the petitioner. Needless to say that if any dispute with regard to the title to the property really exists it is for the appropriate person claiming to have such right to approach the Civil Court and establish the same. It appears that no such attempt was ever made by any person so far including the third respondent. When such being the position, the Petitioner, admittedly a cultivating tenant for all these years, cannot seek for refund of the rent already paid and also to prevent the temple from collecting the rent in future. This attempt of the Petitioner is highly vexatious without having any bona-fide. Therefore I find no merit in the Writ Petition.



6. Accordingly, the Writ Petition fails and the same stands dismissed. Consequently connected Miscellaneous Petitions are dismissed. No costs.

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Sd/-

Assistant Registrar (Crl.side)

/True Copy/

Sub Assistant Registrar

To

1. The Deputy Commissioner/Executive Engineer,
Incorporated and Unincorporated Devasanams,
Suchindrum, Kanyakumari District.
2. The Tahsildar,
Thovalai Taluk,
Kanyakumari District.

+1cc to Speical Government Pleader SR.No.81398
+1cc to Mr.Niranjana S.Kumar, Advocate, SR.No.81084
+1cc to Mr.K.Sathya Singh, Advocate SR.No.81056

**W.P (MD) No.24000 of 2016
and
W.M.P (MD) Nos.17315 and
17316 of 2016
15.12.2016**

vsn
MK/10.1.2017/3p/6c