

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.4328 of 2017 and

W.M.P.No.4524 of 2017

S.Thangamani

.. Petitioner

Vs.

1.The Assistant Commissioner,
Hindu Religious & Charitable Endowment
Department, Government of Tamil Nadu,
Dharmapuri.

2.The Executive Officer,
Arulmighu Sivasubramanya Swamy Temple,
Kumaraswamypettai,
Dharmapuri.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus to call for the records relating to Na.Ka.No.1529/2013/A6 dated 07.02.2017 on the file of the 1st respondent and quash the same and forbear the respondents from interfering with petitioner's peaceful possession and enjoyment of the leased premises comprised in Door No.12-H, Nachiappan Road in Dharmapuri Town, Dharmapuri Taluk and District till he continues to be in lawful occupation of the same as a tenant under the 2nd respondent herein.

For Petitioner .. Mr.M.Venkatachalapathy

Senior Counsel
For Mr.C.Prabhakaran

For 1st Respondent .. Mr.M.Maharaja

Special Govt. Pleader (HR & CE)

For 2nd Respondent .. Mr.V.R.Anna Gandhi

ORDER

Challenging the order passed by the 1st Respondent dated 07.02.2017, the petitioner has preferred this writ petition before this Court.

2. During the course of argument, the learned Senior Counsel for the petitioner would submit that the petitioner has challenged the order passed by the Joint Commissioner, Salem in proceedings M.P.No.7/2014 dated 15.07.2016 before this Court, by filing W.P.No.27182 of 2016 and the same is pending before this Court.

3. The learned Special Government Pleader (H.R. & C.E) would submit that aggrieved by the order passed by the Joint Commissioner, the petitioner has to file a Revision before the Revisional Authority under Section 21(a) of the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1956. Without exhausting the said remedy, the petitioner cannot invoke under Article 226 of the Constitution of India before this Court.

4. The learned Senior Counsel for the petitioner would fairly conceded that the petitioner will approach the Revisional Authority, if this Court grants time for filing the Revision before the competent authority and undertakes that he will take necessary steps to withdraw the writ petition in W.P.No.27182 of 2016, which is pending before this Court.

5. Recording the aforesaid submission made by the learned Senior Counsel for the petitioner, without going into the merits of the case, liberty is granted to the petitioner to file a Revision Petition before the Commissioner of H.R. & C.E. Department within a period of four weeks from the date of receipt of a copy of this order. Further, the petitioner is directed to deposit the entire arrears amount, which works out to Rs.2,65,980/-, within the aforesaid period and the receipt shall be produced before the Authority at the time of filing the Revision Petition. If the said condition has been complied with by the revision petitioner and the same shall be taken on file and thereafter, the Commissioner of H.R. & C.E. Department is directed to dispose of the said Revision Petition as early as possible.

6. At this stage, the learned Special Government Pleader (H.R. & C.E.) appearing for the first respondent undertakes that the petitioner will not be dispossessed from the said property till the Revision Petition is preferred by the writ petitioner.

7. With the above observations, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

8.Registry is directed to return the original impugned order to the learned counsel for the petitioner, after obtaining the xerox copy of the same from him.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

To

1.The Assistant Commissioner,
Hindu Religious & Charitable Endowment
Department, Government of Tamil Nadu,
Dharmapuri.

2.The Executive Officer,
Arulmighu Sivasubramanya Swamy Temple,
Kumaraswamypettai,
Dharmapuri.

+1cc to M/S.C. Prabakaran, SR. 11623

+1cc to M/S. Anand, SR. 10962

+1cc to Government Pleader SR. 11417

W.P.No.4328 of 2017

NR(CO)
VR(27/02/2017)

सत्यमेव जयते

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