

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2017

CORAM

THE HONOURABLE MR.JUSTICE K. RAVICHANDRABAABU

W.P.Nos.30423 and 30424 of 2017

and

W.M.P.Nos.33183 & 33185 of 2017

1. Anand Nahar
2. Hansraj Nahar ... Petitioners in both the W.Ps.

vs.

1. The Secretary,
Tourism, Culture and Religious Endowment Department,
Government of Tamil Nadu,
Fort St.George, Chennai - 600 009.
2. The Commissioner,
Hindu Religious & Charitable Endowments Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam, Chennai - 600 034.
3. The Joint Commissioner,
HR & CE Admin Department, Chennai,
No.119, Uthamar Gandhi Salai,
Nungambakkam, Chennai - 600 034.
4. The Assistant Commissioner,
HR & CE Admin Department, Chennai,
No.119, Uthamar Gandhi Salai,
Nungambakkam, Chennai - 600 034.
5. The Executive Officer,
A/m Katchaleeswarar Temple,
No.77, Armanaikaran Street,
Chennai -1.
6. Nagamuthu ... Respondents in both the W.Ps.

PRAYER:

Writ Petitions filed under Article 226 of Constitution of India, to issue a Writ of Mandamus forbearing the respondents from initiating any proceedings in furtherance to the impugned order dated 10.10.2017 of the 2nd respondent made in R.P.No.342/2016 and R.P.No.358/2016 respectively confirming the order of the 3rd respondent made in Na.Da.Na.Ka.No.9636/2015/ and Na.Da.Na.Ka.No.9640/2015/A2 respectively pending disposal of the above Revision Petition filed on 20.11.2017 on the file of the 1st respondent.

For Petitioners : Mr.V.Srikanth

For Respondents : Mr.M.Maharaja,
Special Govt.Pleader for R1 to R5.

COMMON ORDER

Mr.M.Mahararaja, learned Special Government takes notice for the respondents 1 to 5. By consent of the parties, the writ petitions are taken up for final disposal at the admission stage itself.

2. The 6th respondent is an employee of the petitioners, who according to the petitioners is not a necessary party to decide the writ petitions. Therefore, notice to the 6th respondent is dispensed with.

3. In both these writ petitions, the petitioners who are one and the same are seeking for a mandamus forbearing the respondents from initiating any proceedings in furtherance to the impugned orders dated 10.10.2017 of the second respondent made in R.P.No.342/2016 and R.P.No.358/2016 respectively confirming the orders of the third respondent, pending disposal of the revision petitions filed before the first respondent on 20.11.2017.

4. Heard Mr.V.Srikanth, learned appearing counsel for the petitioners and Mr.M.Maharaja, learned Special Government Pleader appearing for the respondents 1 to 5.

5. The petitioners in each case had suffered an order of eviction passed under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959. Challenging such orders, the petitioners filed revisions before the second respondent, who in turn, by orders dated 10.10.2017 dismissed the revisions. Challenging the said orders of the second respondent, the petitioners preferred appeals before the first respondent under Section 114 of the Tamil Nadu Hindu Religious

and Charitable Endowment Act, 1959, on 20.11.2017. The petitioners also filed stay petition along with the above appeals. It is stated that the first respondent has not taken up the stay petitions by numbering those applications. However, it is apprehended by the petitioners that in the meantime, they will be evicted from the premises in pursuant to the dismissal of the revisions by the second respondent and therefore, the present writ petitions are filed before this Court with the relief as stated supra.

6. Mr.M.Maharaja, learned counsel appearing for the respondents 1 to 5 submitted that the petitioners are in huge arrears of payment of rent/lease and therefore, no indulgence can be shown to the petitioners by this Court. He has also invited this Court's attention to Section 34(A)(5) of the HR & CE Act, to contend that without making the deposit of rent/lease, the petitioners are not entitled to maintain the appeals before the first respondent.

7. On the other hand, the learned counsel for the petitioners submitted that the invocation of Section 34(A)(5) does not arise in this case as it is in respect of fixation of fair rent and therefore, the respondents cannot insist for such payment.

8. This Court, at this stage, is not expressing any view on the rival contentions made by the parties as it is for the first respondent to consider and decide the main relief including the interim relief sought for by the petitioners seeking for stay of the proceedings. Needless to say that the parties can raise all the submissions before the first respondent while considering the stay petitions as well as the main appeals. Therefore, these writ petitions are disposed of only with a direction to the first respondent to take up the stay petitions first and decide the same on merits and in accordance with law after giving due opportunity of hearing to both parties and thereafter to decide the appeals on merits and in accordance with law. Since the petitioners apprehend eviction at the hands of the respondents 1 to 5 at any moment, in all fairness, the stay petition is required to be taken up for hearing by the first respondent at an early date. Accordingly, the first respondent is directed to take up the stay petitions and pass orders on the same on merits and in accordance with law after hearing both the parties within a period of two weeks from the date of receipt of a copy of this order. It is once again reiterated that this Court is not expressing any view on the merits of the claim made by the respective parties as it is for the first respondent to consider and decide including the submissions made by the Department with regard to the deposit of lease amount pending disposal of the appeals. In view of the above said order passed by this Court,

the respondents 1 to 5 shall maintain status quo as on today till an order is passed in the stay petitions by the first respondent. Accordingly, the writ petitions are disposed of.No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

vsi

To

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5. The Executive Officer,
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Chennai -1.

+1cc to Mr.V.SRIKANTH Advocate, S.R.No. 84471/17
+1cc to the Government Pleader, S.R.No. 84144/17

W.P.Nos.30423 and 30424 of 2017

VGII (CO)
TR(11/12/2017)