

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2017

CORAM :

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

WRIT PETITION No. 6612 of 2017
and W.M.P.No.7097 of 2017

K.G. Kamesh,
S/o. K.A. Ganesh

.. Petitioner
Vs.

1. The Joint Commissioner,
Hindu Religious & Charitable Endowment Department,
119, Uthamar Gandhi Salai,
Nungambakkam, Chennai - 600 034.
2. The Assistant Commissioner,
Hindu Religious & Charitable Endowment Department,
119, Uthamar Gandhi Salai,
Nungambakkam, Chennai - 600 034.
3. The Joint Commissioner/The Executive Officer,
A/m. Kabaleeswarar Temple,
Mylapore, Chennai - 600 004. ..Respondents

Prayer : The writ petition filed under Article 226 of the Constitution of India, to calling for the entire records pertaining to the order dated 15.12.2016, which was communicated to the petitioner on 09.01.2017 passed by the Learned Joint Commissioner, HR & CE, Chennai made in Na.Ka. No.14921/2013/A2 and quash the same.

For Petitioner : V. Srikanth

For Respondents: Mr.M. Maharaja,
Special Govt Pleader for
R1 to R3

O R D E R

By consent, this writ petition is taken up for final disposal.

2. The Petitioner would submit that the land in S.No.3333 and its superstructure bearing Door No.19/1, New No.47/1, Luz Church Road, Mylapore, Chennai - 600 004, was leased out to his

forefathers, about 90 years back and the above said superstructure was constructed on the land belonging to the third respondent after due and necessary permission and all of a sudden, without any notice or providing any opportunity whatsoever, the petitioner has been dispossessed on 18.08.2016 by putting a lock and seal on the premises and in the process, not even permitting the petitioner and other occupants of the house to remove the articles/things. The petitioner, in this regard, has also submitted a representation praying for lifting of the lock and seal, so as to enable him to remove the articles and other things in the said premises and vide impugned order dated 15.12.2016, the second respondent though granted such a permission, directed the petitioner to pay damages for use and occupational charges as a precondition and challenging the legality and vires of the same, the present writ petition has been filed.

3. Mr.V.Srikanth, learned counsel appearing for the petitioner has drawn the attention of this Court to the typed set of documents and would submit that due process of law have not been followed at all and the respondents, acting in tandem in an eye handed manner, had dispossessed the petitioner all of a sudden by putting a lock and seal and as a consequence, the medical records pertaining to the mother of the petitioner, who is aged about more than 90 years also, would not be removed and since the entire articles kept in the premises were not taken away, the petitioner and his family members are being put to extreme hardship and untold misery and therefore, prays for appropriate orders permitting the petitioner to remove the articles found in the said premises.

4. Per contra, Mr.M.Maharaja, learned Special Government Pleader appearing for the respondents would submit that the petitioner is in occupation of the valuable property belonging to the third respondent temple and right from the year 2000, did not even pay the land rent and left with no other option only, action has been taken strictly in accordance with law and as such, it is not open to the petitioner to make any complaint in that regard and on instructions, would further state that the lock and seal put up on the premises will be removed so as to enable the petitioner to remove the articles found inside.

5. This Court has considered the rival submissions and also perused the materials placed on record.

6. In the light of the submissions made by the learned Special Government Pleader, on instructions, the third respondent is directed to remove the lock and seal put on the premises bearing Door No.19/1, New No.47/1, Luz Church Road, Mylapore, Chennai - 600 004 between 11 a.m. and 4.00 p.m. on 20th and 21st March 2017, so as to enable the petitioner to remove the

articles found inside and the representative of the third respondent shall be present at that time and if necessary, photograph/videograph can also be taken, in order to avoid any further or future complaint/s. The third respondent on removal of the articles, shall put lock and seal on the said premises. The petitioner, if so advised and if it is open to him under law, is always at liberty to workout his further remedy in accordance with law, before the competent forum.

7. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

vsm

To

1. The Joint Commissioner,
Hindu Religious & Charitable Endowment Department,
119, Uthamar Gandhi Salai,
Nungambakkam, Chennai - 600 034.
2. The Assistant Commissioner,
Hindu Religious & Charitable Endowment Department,
119, Uthamar Gandhi Salai,
Nungambakkam, Chennai - 600 034.
3. The Joint Commissioner/The Executive Officer,
A/m. Kabaleeswarar Temple,
Mylapore, Chennai - 600 004.

+1cc to Mr.V.Srikanth,Advocate sr.17140

+1cc to Government Pleader sr.16952

+1cc to Mr.M.Maharaja,Advocate sr.17420 (21/3/2017)

WRIT PETITION No. 6612 of 2017

msm(co)
ss(20/3/2017)