

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2017

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Writ Petition No. 306 of 2017

A.R. Kannan

.. Petitioner

Versus

The Joint Commissioner/Executive Officer
Arulmighu Arunachaleswarar Devasthanam
Tiruvannamalai - 606 601

.. Respondent

Petition filed under Article 226 of the constitution of India to issue a Writ of Certiorarified Mandamus calling for records of the respondent in Na.Ka.No.213/2015/A6 dated 22.11.2016 and to quash the same and direct the respondent to permit the petitioner to run the shop located at Puravi Mandapa of Arulmigu Arunachaleswarar Temple, Tiruvannamalai

For Petitioner : Mrs. Radha Gopalan

For Respondent : M/s. A.S. Kailasam and Associates

ORDER

The petitioner challenges the order dated 22.11.2016 of the respondent, by which, the petitioner was directed to vacate and handover vacant possession of the shop run by him so as to facilitate the respondent to perform the Kumbabhishekam festival.

2. The learned counsel for the petitioner would contend that the shop in question was originally leased out to the father of the petitioner in the year 1969, which was used by him for running a book stall and photo frame shop. After the death of the petitioner's father, the petitioner has been continuing the business by remitting the lease rent fixed by the temple. Further, the rent was enhanced from time to time and it was also remitted by the petitioner without any default. While so, without any basis, the respondent has sealed the shop run by the petitioner. Therefore, the learned counsel for the petitioner would contend that the order passed by the respondent to vacate the shop in question is unjustifiable and it calls for interference by this Court.

3. The learned counsel for the respondent would contend that the petitioner is sought to be evicted only to facilitate the respondent to conduct the Kumbabhishekam festival and particularly to accommodate the temple elephant in the mandapam

during the festival time, where the petitioner is running the shop. Therefore, the learned counsel for the respondent would justify the order passed by the respondent and prayed for dismissal of the writ petition.

4. At this stage, the learned counsel appearing for the petitioner would contend that the petitioner is ready and willing to handover the vacant possession of the shop in question to the respondent on or before 30.06.2017 and he will also file an affidavit of undertaking to that effect. The learned counsel appearing for the petitioner therefore prayed this Court to permit the petitioner to continue the business till 30.06.2017 by removing the seal affixed by the respondent in the shop. The learned counsel for the petitioner further submits that the proportionate rent which is payable to the petitioner for non-occupation of the shop in question from the date of sealing of the premises shall be refunded by the respondent after the petitioner vacates the shop on or before 30.06.2017.

5. The learned counsel for the respondent has no serious objection for considering the claim of the petitioner to permit him to run the shop till 30.06.2017.

6. Having regard to the above submission of the counsel for both sides, The petitioner is also directed to file an affidavit of undertaking indicating that he will vacate and handover vacant possession of the shop to the respondent on or before 30.06.2017 and on receipt of such undertaking, the respondent is directed to remove the seal affixed in the shop of the petitioner forthwith and to handover the shop to the petitioner. The petitioner is also directed to vacate and handover the premises in question to the respondent on or before 30.06.2017. As and when the petitioner vacates the shop in question, the respondent is directed to refund the proportionate rent which is payable to the petitioner by the respondent for non-occupation of the shop in question due to sealing of the premises.

7. With the above direction, the writ petition is disposed of. No costs. Consequently, connected WMP Nos. 345 and 346 of 2017 are closed.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

rsh

+1cc to Mr.S.Radha Gopalan,counsel for petitioners sr.18906

+1cc to M/s.A.S.Kailasam,Advocate sr.18120