

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

WRIT PETITION No.4801 of 2017

K.M.Elumalai

... Petitioner

vs.

1.The Commissioner,
Hindu Religious & Charitable Endowment,
No.119, Uttamar Gandhi Salai,
Nungambakkam,
Chennai 600 034.

2.The Joint Commissioner,
Hindu Religious & Charitable Endowment,
No.119, Uttamar Gandhi Salai,
Nungambakkam,
Chennai 600 034.

3.Arulmighu Madhava Perumal Thirukoil,
rep. by its Executive Officer,
Mylapore,
Chennai - 600 004.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus, directing the 1st respondent to dispose of the petitioner's representation dated 07.10.2016 on merits.

For Petitioner : Mr.T.A.Srinivasan

For Respondents : Mr.M.Maharaja,
Special Government Pleader
(HR & CE)

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O R D E R

The petitioner has come up with this Writ Petition seeking a direction to the 1st respondent to dispose of his representation dated 07.10.2016 on merits.

2. According to the petitioner, the 3rd respondent, who is the owner of the land measuring an extent of 12 grounds comprised in Old Survey No.1209, New R.S.No.1202 part situated

at Pudupet Gardens, Royapettah, Chennai - 14, leased it out to Mr.Vrishabadas Nainar for a long time lease. On 28.02.1985, the petitioner purchased a thatched hut together with the leasehold rights from the said Kannayiram vide registered Sale Deed dated 28.02.1985 registered as Document No.284 of 1985, SRO Joint I, Central, Madras and constructed a dwelling unit consisting ground and first floor and continued to reside with his family and the Corporation of Chennai allotted New Door No.21, Old No.9/1, Pudupet Gardens II Lane, Royapettah, Chennai - 14 for the above property.

3. In the year 1985, the 3rd respondent recognized the petitioner as a tenant and fixed monthly rent of Rs.35/- per month for the land allotted to the petitioner. The petitioner regularly paid the rent to the 3rd respondent and also paid statutory dues to the respective authorities. While so, the petitioner received a legal notice dated 11.08.2004 from one Jayakumar, demanding the petitioner to quit and deliver the vacant possession of the property claiming that he is the owner of the above said property and his right and title over the property was upheld in the judgment rendered in LPA Nos.112 to 114 of 2000. The petitioner was shocked to receive a legal notice dated 07.05.2007 issued on behalf of the 2nd respondent demanding delivery of vacant possession by removing superstructure thereon. The petitioner sent a reply to the above notice and enclosed a Demand Draft for a sum of Rs.910/- being the rents payable due as on 30.04.2007 to prove his bonafides. Even after receipt of the reply notice and the payment of entire dues, the 3rd respondent filed a suit in O.S.No.3379 of 2007 against the petitioner for recovery of possession and arrears of rents.

4. On consideration of the petitioner's request, the 3rd respondent vide their Letter dated 14.07.2008 in Na.Ka.No.10/2008 agreed to withdraw the suit on condition that the petitioner gave a Undertaking/Consent to pay the fair rent of Rs.391/- per month with effect from 01.11.2011 with litigation costs, in all, amounting to Rs.33,229/-. Immediately, the petitioner sent a Undertaking Letter to the 3rd respondent as required by them agreeing to comply with the above conditions. After the compliance of the above conditions, the 3rd respondent forwarded the files to the 2nd respondent on 18.11.2009. After perusal of the files, the 2nd respondent voluntarily recommended the compromise proposal to the 1st respondent vide Recommendation dated 02.05.2012 in Na.Ka.11962/2009/A3 requesting the 1st respondent to consider and pass appropriate orders. Since no orders are passed, the petitioner filed an appeal on 04.08.2016. On 23.08.2016, the petitioner received a communication from the Additional Commissioner (General)/Appellate Authority informing that the Appellate Authority is the Joint Commissioner and the appeal was

transferred to the Joint Commissioner advising him to send a suitable reply to the appeal. As no reply is forthcoming, the petitioner sent a representation dated 07.10.2016 to the 1st respondent seeking to furnish a copy of the order passed by the latter. Pending consideration of the same, the petitioner is before this Court.

5. Heard the learned counsel on either side and perused the material documents available on record.

6. Considering the facts and circumstances of the case, this Court directs the 1st respondent to consider the petitioner's representation dated 07.10.2016 on merits and in accordance with law and pass appropriate orders within a period of four months from the date of receipt of a copy of this order.

This Writ Petition is disposed of with the above direction. No costs.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To

1.The Commissioner,
Hindu Religious & Charitable Endowment,
No.119, Uttamar Gandhi Salai,
Nungambakkam,
Chennai 600 034.

2.The Joint Commissioner,
Hindu Religious & Charitable Endowment,
No.119, Uttamar Gandhi Salai,
Nungambakkam,
Chennai 600 034.

+lcc to M/S. Sree & Associates, Advocate Sr. 12310/17
+lcc to the Government Pleader, Sr. 12692/17

Order in
W.P.No.4801 of 2017

BR (CO)
VR (15/03/2017)