

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2017

CORAM :

The Hon'ble MR.HULUVADI G.RAMESH, ACTING CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE M.SUNDAR

W.A.Nos.6 & 7 of 2017

and

C.M.P.Nos.2631 & 2632 of 2017

M/s.Mermaid Properties Private Limited,
rep. by its Director P.Ramachandran,
1-C, JVL Towers, New No.51,
Nelson Manickam Road,
Chennai-600 029.

.. Appellant in
both appeals

-vs-

1. The Secretary,
Hindu Religious and Endowment Department,
Fort St. George,
Secretariat, Chennai - 600 009.
2. The Commissioner,
HR & CE Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai - 600 034.
3. The Executive Officer,
Arulmigu Nithya Kalyana Perumal Temple,
Thiruvadanthai,
Kancheepuram District.

.. Respondents in
both appeals

Appeals filed under Clause 15 of Letters Patent against the order dated 04.11.2016 made in W.P.Nos.38348 & 38349 of 2016 on the file of this Court.

WP.38348/16: Writ petition filed u/a.226 of the Constitution of India, praying for a writ of certiorari calling for the records of the 2nd respondent vide Na.Ka.No.16695/2016V-2 dated 21.06.2016 and quash the same as it is against the Rule of Law and Principles of Natural Justice as such order has been passed without taking into consideration the orders of the 1st

respondent in G.O.(D).No. 177 dated 08.06.2007 for the schedule mentioned property more fully described in the petition.

WP.38349/16: Writ petition filed u/a.226 of the Constitution of India, praying for a writ of mandamus, directing the 1st respondent for renew of the lease with increased rent amount from 01.11.2016 for a period of three years with proportionate increase on the lease rent for the property more fully described in the petition.

For Appellant .. Mr.P.Subba Reddy

For Respondents.. Mr.V.Lakshminarayan
for 3rd respondent
* * * * *

COMMON JUDGMENT

(Order of the Court was made by The Hon'ble Acting Chief Justice)

These appeals are directed against the common order passed by the learned Single Judge in W.P.Nos.38348 & 38349 of 2016, dated 04.11.2016.

2. Heard the learned counsel for the appellant and the learned counsel appearing for the third respondent/temple.

3. The learned counsel for the appellant submits that the appellant is maintaining the leased property for a long time. Even though the lease period expired in 2010, till date, the appellant is maintaining the property. The appellant company has sought for renewal for the entire extent of 22 cents and the same is pending consideration. Since the application for renewal of the lease has not been rejected and the security deposit is lying with them, the same may be adjusted against future period lease rentals payable by the appellant after 2010 and the lease agreement shall be deemed to have been renewed from 2010 to till date. The learned Single Judge without seeing all the ground realities passed an order, which is totally in contradiction to the ground realities at site and prays for setting aside the order of the learned Single Judge.

4. The learned counsel appearing for the third respondent submits that renewal of lease has to be made before the second respondent and the second respondent would in turn ascertain the views of the third respondent and place it before the first respondent for consideration. He further submitted that the order of the learned Single Judge is perfectly correct and prays for dismissal of the appeals.

5. On 24.1.2017, this Court passed the following order:-

"Heard Mr.P.Subba Reddy, learned counsel for the appellant and Mr.V.Lakshmi Narayanana, learned counsel for the third respondent.

2.The learned counsel for the third respondent, in our opinion, has rightly pointed out that the offer seeking renewal of the lease has to be made before the Commissioner of Hindu Religious and Charitable Endowment Department, so that the said Commissioner would in turn ascertain views of the Temple and place the matter for further consideration of the State Government.

3.Accordingly, preserving liberty to the appellant to approach the Commissioner, HR&CE, as expeditiously as possible, offering a minimum donation of Rs.5,00,000/- (Rupees five lakhs only), for securing renewal of leasehold rights/licence for every period of three years and also offering the arrears of lease amount, together with a proposal enhancing it by a minimum of 15% for every period of three years, we are confident that the same will be considered suitably by the Commissioner."

6. The appellant company was granted lease on 03.08.2007 for a period of three years and the lease period expired on 31.07.2010. As per the learned counsel for the appellant, renewal application submitted by the appellant is pending before the respondent/authorities.

7. During the course of arguments, the learned counsel for the appellant is agreeable to offer donation of Rs.5,00,000/- for securing renewal of leasehold rights for every period of three years and also offering the arrears of lease amount together with a proposal enhancing it by a minimum of 15% for every period of three years.

8. In view of the said submission, the appellant is granted liberty to make the offer before the authority concerned and it is left to the discretion of the authority concerned to decide the claim of the appellant on merits and in accordance with law within a period of three months from the date of the offer so made.

9. The appeals are disposed of and the order of the learned Single Judge made in W.P.Nos.38348 & 38349 of 2016, dated 04.11.2016 is modified to the extent indicated above. No costs. Consequently, C.M.P.Nos.2631 & 2632 of 2017 are closed.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

To

1. The Secretary,
Hindu Religious and Endowment Department,
Fort St. George,
Secretariat, Chennai - 600 009.
2. The Commissioner,
HR & CE Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai - 600 034.
3. The Executive Officer,
Arulmigu Nithya Kalyana Perumal Temple,
Thiruvadanthai,
Kancheepuram District.

+1 cc to Mr.P.Subba Reddy,advocate,sr.15133

+1 cc to Mr.V.Raghachari,advocate,sr.15194

+1 cc to Govt.Pleader,sr.15200

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krd 20/3

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