

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2017

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.No.23059 of 2017
and W.M.P.Nos.24178 and 24179 of 2017

C.Sarveswaran ... Petitioner
vs.

1. The State of Tamil Nadu
rep. By the Secretary,
Hindu Religious and Charitable
Endowment Department,
Fort St. George, Chennai 9.
2. The Commissioner,
Hindu Religious and Charitable
Endowment Department,
Nungambakkam, Chennai 34.
3. The Joint Commissioner,
Hindu Religious and Charitable
Endowment Administration
Compound, Vellore.
4. The Assistant Commissioner,
Hindu Religious and Charitable
Endowment, Collectorate Compound,
Kanchipuram.
5. Arulmigu Vaikunda Perumal Koil
Devasthanam, Kanchipuram
rep. By its Executive Officer and
Administrative Officer, having office
at Arulmigu Vaikundaperumal Koil
Devasthanam, Kanchipuram ... Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus to call for the entire records pertains to the impugned order of the 5th respondent dated 27.06.2017 and the consequential impugned order of the 5th respondent dated 11.07.2017, quash both the same and consequently forbear the respondents from in any manner interfering with the petitioner's peaceful possession and enjoyment of the premises.

For Petitioner : Mr.J.Ramakrishnan

For Respondents : Mr.M.Maharaja, SGP

O R D E R

Mr.M.Maharaja, learned Special Government Pleader takes notice for the respondents. By consent, the main writ petition itself is taken up for disposal at the admission stage itself.

2. The petitioner has filed the above Writ Petition to issue a writ of certiorarified mandamus to call for the records pertaining to the impugned order of the 5th respondent dated 27.06.2017 and the consequential order of the 5th respondent dated 11.07.2017 and to quash the same and consequently forbear the respondents from in any manner interfering with his peaceful possession and enjoyment of the premises.

3. It is the case of the petitioner that the land over which his house was constructed by him belongs to the 5th respondent Devasthanam and he is the tenant of the vacant land and he is residing with his family for more than 40 years. According to the petitioner, he has been paying the monthly rent of Rs.2,000/-. On 22.11.2016, the petitioner, made a detailed representation to the 5th respondent in writing requesting him to issue proper receipts for all the payments made by him and also for giving credit to the account of the 5th respondent Devasthanam. Since the representation was not considered by the 5th respondent, the petitioner, filed a writ petition in W.P.No.10730 of 2017 to issue a writ of mandamus to direct the 5th respondent to dispose of the representation. This Court, by order dated 27.04.2017, disposed of the writ petition, directing the 5th respondent to dispose of the representation, in accordance with law, within a period of eight weeks. Pursuant to the order passed by this Court, the 5th respondent, passed the impugned order dated 27.06.2017 and 11.07.2017, finding that the petitioner is in arrears of a sum of Rs.98,700/- upto 30.06.2017. In the order dated 27.06.2017, the 5th respondent has also given a calculation for fixing the fair rent.

4. Mr.J.Ramakrishnan, learned counsel appearing for the petitioner submitted that the 5th respondent has passed the impugned orders arbitrarily, without giving an opportunity of personal hearing to the petitioner.

5. Mr.M.Maharaja, learned Special Government Pleader appearing for the respondents submitted that the petitioner is in arrears of Rs.98,770/- and therefore, the petitioner may be directed to deposit at least 50% of the arrears of rent.

6. Having regard to the submissions made by the learned counsel on either side, since the 5th respondent has passed the impugned orders, without giving an opportunity of personal hearing, which is violative of principles of natural justice, the impugned orders dated 27.06.2017 and 11.07.2017 are liable to be set aside. Accordingly, the same are set aside, on condition that the petitioner paying 50% towards part of arrears of rent, within a period of two weeks from the date of receipt of a copy of this order, failing which, the orders dated 27.06.2017 and 11.07.2017 shall be confirmed. In the event of the petitioner paying 50% towards part of arrears of rent, within the above stipulated period, the 5th respondent is directed to decide the matter afresh, after giving an opportunity of personal hearing to him.

With these observations, the Writ Petition is allowed. No costs. Connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

rg

To

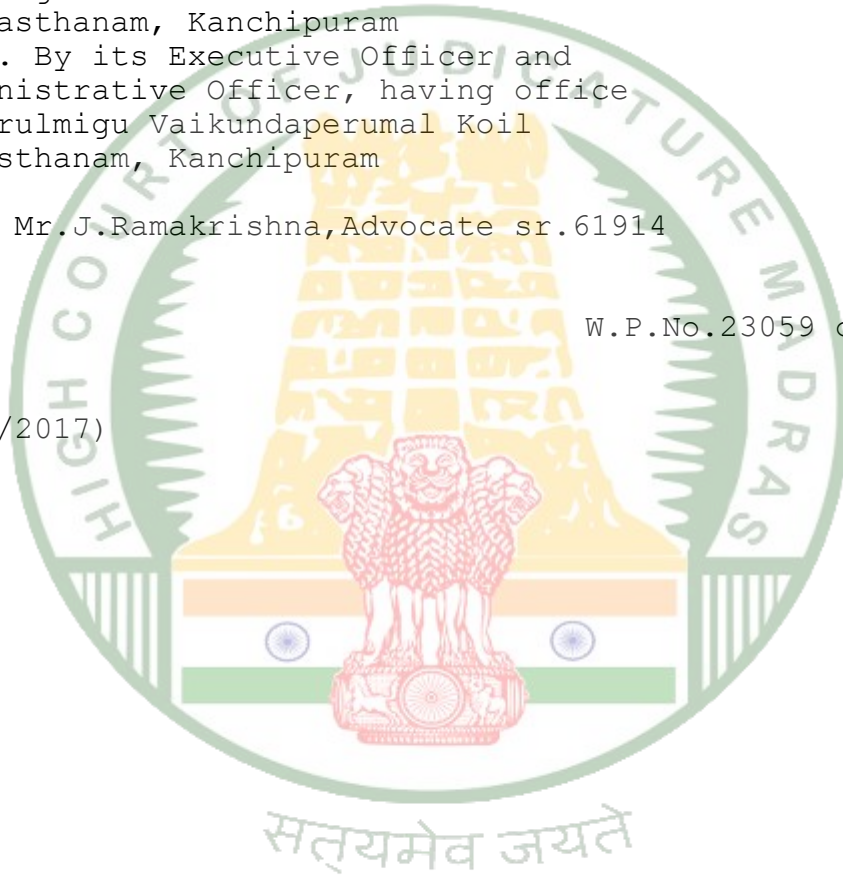
1. The State of Tamil Nadu
rep. By the Secretary,
Hindu Religious and Charitable
Endowment Department,
Fort St. George, Chennai 9.
2. The Commissioner,
Hindu Religious and Charitable
Endowment Department,
Nungambakkam, Chennai 34.

3. The Joint Commissioner,
Hindu Religious and Charitable
Endowment Administration
Compound, Vellore.
4. The Assistant Commissioner,
Hindu Religious and Charitable
Endowment, Collectorate Compound,
Kanchipuram.
5. Arulmigu Vaikunda Perumal Koil
Devasthanam, Kanchipuram
rep. By its Executive Officer and
Administrative Officer, having office
at Arulmigu Vaikundaperumal Koil
Devasthanam, Kanchipuram

+lcc to Mr.J.Ramakrishna,Advocate sr.61914

W.P.No.23059 of 2017

mn(co)
ss(30/8/2017)



WEB COPY