

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

WRIT PETITION No.3624 of 2017

C.Rameswaran

... Petitioner

vs.

1. The Commissioner,
H.R. & C.E., Chennai - 34.

2. The Joint Commissioner,
H.R. & C.E.,
Nungambakkam High Road,
Chennai - 34.

3. Thakkar/Executive Officer,
A/m. Sri Muthukumrasamy Temple,
Poonga Nagar,
Chennai 600 003.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus calling for the records from the 2nd respondent pertaining to the impugned order of eviction dated 13.01.2017 in Na.Ka.No.8848/2015/A2 and quash the same and consequently direct the 2nd respondent to permit the petitioner to let in both oral and documentary evidence.

For Petitioner :Mr.S.Jaganathan

For Respondents 1& 2 :Mr.M.Maharaja,
Special Government Pleader (HR & CE)

For 3rd Respondent :Mr.Bharanidharan

O R D E R

The petitioner has come up with this Writ Petition seeking to quash the impugned order dated 13.01.2017 passed by the 2nd respondent vide Na.Ka.No.8848/2015/A2 and for a consequential direction to the 2nd respondent to permit him to let in both oral and documentary evidence.

2. According to the petitioner, in the year 1997, Smt. Papalammal Unnamulai Ammal Fund attached to Sree Muthukumarasamy Devasthanam, represented by its Trustee offered him to let out entire building in 225, Thangasalai, Chennai and requested him to pay a sum of Rs.5,00,000/-. But, subsequently the Trust imposed a precondition that a sum of Rs.20,00,000/- should be paid as donation. Though the petitioner was constrained to pay the amount, he requested Smt. Papalammal Unnamulai Ammal Fund to show the said amount of Rs.20 lakhs as advance and enter into an agreement of lease. Thereafter, the Trust insisted that the said amount should be paid as donation and promised to construct a new building in the said premises and hand over the entire area to the petitioner. But the said Trust did not adhere to its promise and handed over only a portion of the said incomplete building measuring 729 sq. ft. in the Ground Floor to the petitioner in 1999, and rented out other portions to other tenants. The petitioner was constrained to accept the same and started his business in a portion of the building, in the name and style of M/s.Chidambara Pandian & Co.

3. While so, on 05.06.2015, the Trust came to his premises and orally directed him to vacate the premises. Hence, the petitioner filed a suit in O.S.No.3222 of 2015 on the file of the Hon'ble IV Assistant City Civil Court, Chennai and the same is pending. As a counter blast, the 2nd respondent issued a notice dated 02.02.2016 vide Na.Ka.No.8848/2015/A2 claiming the petitioner as an encroacher. Thereafter, the petitioner sent a letter dated 24.06.2016 to the 2nd respondent to afford him an opportunity of hearing and let in oral and documentary evidence. Since there was no reply from the 2nd respondent, the petitioner filed W.P.No.2407 of 2017 seeking a direction to the 2nd respondent to consider his representation dated 24.06.2016 and permit him to let in oral and documentary evidence. Since the respondents represented that eviction order was already passed, the said Writ Petition was disposed of with liberty to the petitioner to challenge the said petition. Hence, the petitioner filed a revision before the Commissioner of H.R. & C.E. Now, challenging the impugned order passed by the 1st respondent, the petitioner is before this Court.

4. Today, when the matter is taken up for hearing, learned Special Government Pleader appearing for respondents 1 and 2 submitted that possession has already been taken.

5. Learned counsel counsel for the petitioner also admitted that the HR & CE Department has already taken possession of the premises in question. However, learned counsel admitted that as against the impugned order, the petitioner has preferred a Revision before the Commissioner of

H.R. & C.E. Department vide Revision Petition No.106 of 2017.

6. In view of the above, when the petitioner himself has chosen an alternative remedy by filing a Revision Petition and it is also numbered, the present Writ Petition is not maintainable and it is dismissed. However, the petitioner is at liberty to raise all the points before the Commissioner, H.R. & C.E., including taking of possession. No costs. Consequently, connected W.M.P.Nos.3659 and 3660 of 2017 are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner,
H.R. & C.E., Chennai - 34.
2. The Joint Commissioner,
H.R. & C.E.,
Nungambakkam High Road,
Chennai - 34.

+1cc to Mr.Karthikeyan, Advocate, S.R.No.9898
+1cc to the Government Pleader, S.R.No.9937

SSI(CO)
RS(03/03/2017)

सत्यमेव जयते

Order in
W.P.No.3624 of 2017

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