

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2017

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THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.26955 of 2017
and
W.M.P.No.28759 and 28760 of 2017

R.Kumar

.. Petitioner

Vs.

1. The Commissioner,
Hindu Religious & Charitable Endowment Department,
119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai - 600 034.
2. The Joint Commissioner,
Hindu Religious & Charitable Endowment
Department, Coimbatore Division,
Dr.Balasundaram mroad,
Coimbatore - 641 018.
3. The Assistant Commissioner,
Hindu Religious & Charitable Endowment Department,
Tirupur Division, Office of the assistant Commissioner,
A/m. Visweshwaraswamy & Veeraghava Perumal Temple campus,
Tirupur Town, Taluk & District.
4. The Fit Person,
A/m Kondathukaliyamman Temple,
Perumanallur Village, Avinashi Taluk, Tirupur District,
also the Executive Officer,
A/m Avinasilingeshwarar Temple,
Avinashi Taluk, Tirupur District.
5. The Executive Officer
A/m.Kondathukaliyamman Temple Perumanallur
Village Avinashi Taluk Tirupur District.

.. Respondents

PRAYER: Writ petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to direct the respondents 3 to 5 to immediately remove the seal

and restore the Electricity Connection to the sealed premises.

For Petitioner : Mr.V.Srikanth

For Respondents : Mr.M.Maharaja,
Special Government Pleader
for R1 to R3

O R D E R

This writ petition is filed seeking for a Mandamus directing the respondents 3 to 5 to immediately remove the seal and restore the Electricity Connection to the sealed premises.

2. Heard Mr.V.Srikanth, learned counsel for the petitioner and Mr.M.Maharaja, learned Special Government Pleader appearing for the HR & CE Department.

3. It is seen that an eviction proceedings under Section 78 of the HR & CE Act was initiated against the petitioner and others which culminated into passing an order of eviction on 11.04.2017. It is further seen that the petitioner had challenged the said order before the 1st respondent by way of statutory revision on 23.06.2017 wherein the 4th respondent has also filed counter affidavit. It is stated that the said revision filed by the petitioner is still pending before the 1st respondent for consideration and in fact it is posted on 21.11.2017 for final hearing. In the meantime, the petitioner premises was sealed and the electricity supply was disconnected on the allegation that the petitioner is in arrears of payment of rent.

4. Mr.M.Maharaja, learned Special Government Pleader appearing for HR & CE submitted that the petitioner is not at all a tenant under the Department and therefore, he cannot be shown any indulgence.

5. Needless to say that all these issues have to be gone into and decided by the 1st respondent in the revision pending before him and therefore, this Court at this stage is not expressing any view on the claim made by the petitioner or the claim made by the respondent Department. However, while considering the fact that the very revision filed by the petitioner is pending before the first respondent and not yet decided, the action of the respondents 3 to 5 in sealing the premises and disconnecting the power supply is not proper and certainly the same would cause hardship to the petitioner. Moreover, the petitioner in the revision has specifically admitted that he would agree and pay the fair rent and other dues whatever to be claimed by the temple authorities.

6. Mr.V.Srikanth, learned counsel for the petitioner reiterated the above said contention and submitted that once the Commissioner fixes the fair rent, the petitioner will pay the same without agitating the matter further. In any event, the question as to whether the petitioner is a tenant in the temple premises or not has also to be gone into by the 1st respondent on merits and in accordance with law. Therefore, this Court is not inclined to confer any status on the petitioner as the tenant of the respondent temple.

7. Considering all these aspects, the writ petition is disposed of as follows:

(a) The 1st respondent is directed to dispose of the revision filed by the petitioner on the date so fixed i.e., 21.11.2017 after hearing all the parties concerned on merits and in accordance with law.

(b) The petitioner should co-operate with the 1st respondent for disposal of the revision without dragging the matter any further.

(c) The respondents 3 to 5 are directed to remove the seal and restore the electricity connection to the premises of the petitioner, subject to the final outcome of the order to be passed by the 1st respondent.

It is made clear that this Court is not expressing any view on the claim made by either of the parties on the merits of the matter, as it is for the first respondent to consider the same and decide. No costs. Consequently, connected miscellaneous petitions are closed.

s/d-

Assistant Registrar(CS-V)

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Sub-Assistant Registrar

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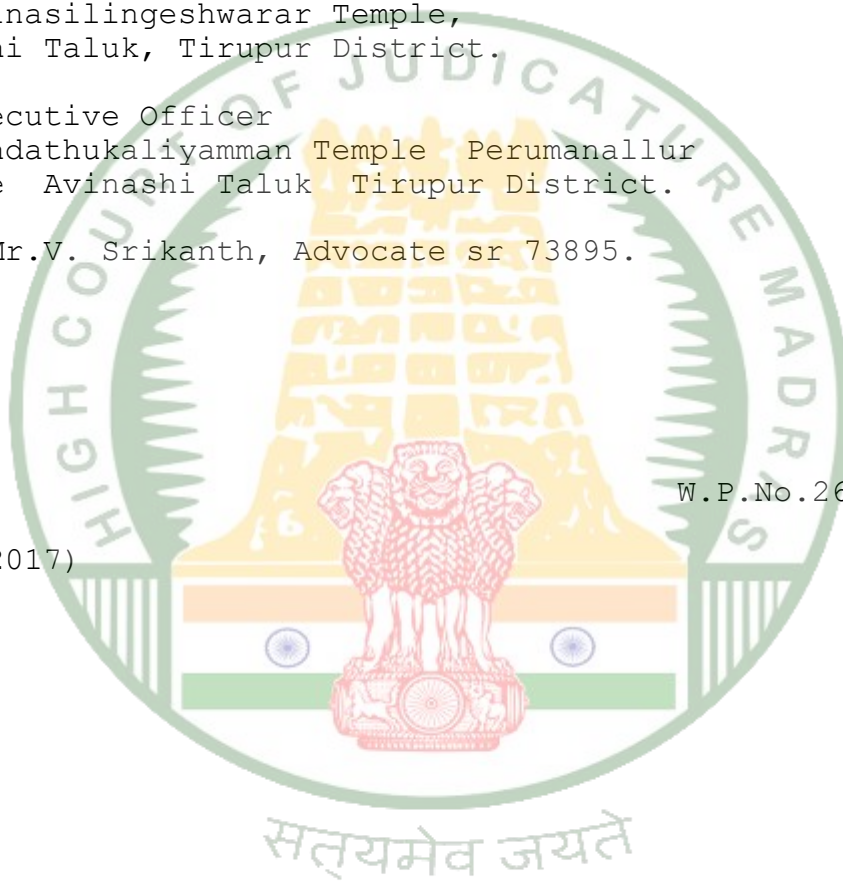
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- +1 CC to Mr.V. Srikanth, Advocate sr 73895.

SP(13/10/2017)

W.P.No.26955 of 2017



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