

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition Nos.27950 and 27951 of 2017
and
WMP.Nos.29993 to 29996 of 2017

N.Rajalakshmi
K.Ponnusamy

.. Petitioner in W.P.No.27950/2017
.. Petitioner in W.P.No.27951/2017

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 Road,
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,
and the Executive Officer,
A/m Avinasilingeswarar Temple,
Avinashi Taluk, Tirupur District.
5. The Executive Officer,
A/m, Kondathukaliyamman Temple,
Perumanallur Village,
Avinashi Taluk,
Tirupur District. ..Respondents 1 to 5 in all the W.Ps.

COMMON PRAYER:

Writ petitions filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the respondents 3 to 5 to immediately remove the seal and restore the Electricity Connection to the sealed premises.

For Petitioners :Mr.V.Srikanth
For Respondents :Mr.M.Maharaja,
Special Government Pleader for R1 to R3
Mr.R.Rajesh Vivekanandan
standing counsel for R5
(in WP.Nos.27950 & 27951 of 2017)

COMMON ORDER

These writ petitions are filed seeking for a Mandamus directing the respondents 3 to 5 to immediately remove the seal and restore the electricity connection to the respective premises of the petitioners.

2. Heard Mr.V.Srikanth, learned counsel for the petitioners, Mr.M.Maharaja, learned Special Government Pleader appearing for the respondents 1 to 3 and the learned Standing Counsel appearing for the fifth respondent.

3. It is seen that an eviction proceedings under Section 78 of the HR & CE Act was initiated against the petitioners and others which culminated into passing an order of eviction on 11.04.2017. It is further seen that these petitioners have 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 petitioners are 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 petitioners premises were sealed and the electricity supply was disconnected on the allegation that the petitioners are in arrears of payment of rent.

4. Mr.M.Maharaja, learned Special Government Pleader appearing for HR & CE submitted that these petitioners are not at all tenants under the Department and therefore, they 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 petitioners or the claim made by the respondent Department. However, while considering the fact that the very revision filed by these

petitioners are 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 petitioners. Moreover, the petitioners in their revision have specifically admitted that they 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 petitioners reiterated the above said contention and submitted that once the Commissioner fixes the fair rent, these petitioners will pay the same without agitating the matter further. In any event, the question as to whether these petitioners are tenants 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 petitioners as the tenants of the respondent temple.

7. Considering all these aspects, these writ petitions are disposed of as follows:

(a) The 1st respondent is directed to dispose of the revision filed by the petitioners 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 petitioners should cooperate 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 respective premises of the petitioners, 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. सत्यमेव जयते

Sd/-

Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

To

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 Road,
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A/m Avinasilingeswarar Temple,
Avinashi Taluk, Tirupur District.
5. The Executive Officer,
A/m, Kondathukaliyamman Temple,
Perumanallur Village,
Avinashi Taluk,
Tirupur District.

+2 cc's to Mr.V.Srikanth, advocate,sr.78113

+1 cc to Govt.Pleader,sr.78067.

krd 9/11

W.P.Nos.27950 & 27951 of 2017

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