

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.03.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.6741 of 2017
and W.M.P.Nos.7292 and 7293 of 2017

K.Narayanasamy

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary,
Hindu Religious and Endowment Department,
Fort St. George, Chennai - 600 009.

2.The Commissioner,
Hindu Religious and Endowment Department,
Nungambakkam, Chennai - 600 034.

3.The Joint Commissioner,
(Head Quarters),
Hindu Religious and Endowment (Education and
Charitable Institutions) Department,
Hindu Religious and Endowment Department,
Nungambakkam, Chennai - 600 034.

4.The Assistant Commissioner,
Hindu Religious and Endowment (Education and
Charitable Institutions) Department,
Hindu Religious and Endowment Department,
Nungambakkam, Chennai - 600 034.

5.The Executive Officer,
Arulmighu Sella Pillaiyar Thirukoil,
Otteri, Chennai - 12.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for
the issuance of writ of Certiorari, calling for the records on the file of the 2nd

respondent relating to the order issued in proceedings Na.Ka.No.13302/2008 A3 dated 03.03.2017 and to quash the same insofar as evicting the petitioner from the premises bearing Door No.37, Selaperumal Koil Street, Ottery, Chennai - 12 comprised in S.No.2901, to an extent of 1428 sq. ft.

For Petitioner : Mr.K.Bhuvaneswari

For Respondents : Mr.M.Maharaja,
Special Government Pleader

ORDER

By consent, this writ petition is taken up for final disposal.

2. The petitioner would aver that his family is residing in Door No.30/37, Selvaperumak Koil Street, Otteri, Chennai - 600 012 for the past 65 years and his father was in possession and enjoyment of the same and after his demise, he along with his family continued to residing in the said premises. The grievance expressed by the petitioner is that all of a sudden, without putting the petitioner on notice, the second respondent has passed the impugned order dated 03.03.2017 by invoking the provisions of Section 78 of the Hindu Religious and Charitable Endowments Act, 1959 (HR & CE Act), calling upon the petitioner to vacate from the premises in question, within 30 days from the date of receipt of the notice and it would also indicate in the said order, the petitioner is due and payable for a sum of Rs.6,30,526/-, being the arrears of rent amount and challenging the legality of the same, the petitioner came forward to file this writ petition.

3. The learned counsel appearing for the petitioner would submit that the petitioner has not afforded with any opportunity whatsoever and on instructions, would further submit that the petitioner is ready and willing to deposit the entire arrears and since he is residing along with his family for so many years, prays for sympathetic consideration and appropriate orders.

4. Per contra, Mr.M.Maharaja, learned Special Government Pleader, who accepts notice on behalf of the respondents would submit that admittedly the petitioner is having in huge arrears and despite fair and reasonable opportunity is given to the petitioner, did not pay the rent and left with no other option only, the third respondent, after following the due process of law, has passed the impugned order and would further add that the petitioner is having an effective alternate remedy in the form of revision under Section 21 of the said Act and prays for dismissal of the said writ petition.

5. This Court has considered the rival submissions and also perused the materials placed before it.

6. In the light of the effective alternate remedy under Section 21 of the HR & CE Act and also in the light of the power available under sub-Section 6 of Section 21 of the said Act, this Court is of the view that for the

present, the writ petition is not maintainable.

7. In the light of the above facts and circumstances, the petitioner is at liberty to file a revision along with petition for stay in a prescribed format, to the second respondent within a period of two weeks from the date of receipt of a copy of this order and upon receipt of the same, the second respondent shall entertain the same, if papers are otherwise in order, without putting the issue of limitation either to take up the stay petition or main revision and give a disposal on merits and in accordance with law within a further period of ten weeks thereafter and communicate the decision taken to the petitioner. The respondents 3 to 5, shall defer further proceedings, till the writ petitioner files the revision before the second respondent. It is also open to the petitioner to pay the arrears to the fifth respondent.

8. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

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vsm

Index : No

Internet : Yes

To

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M.SATHYANARAYANAN.J.,

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