



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A. (MD) No.182 of 2017

D.K.Samy

... Appellant / Petitioner

-vs-

1.The Joint Commissioner
Hindu Religious and Charitable
Endowment
Sivagangai, Sivagangai District

2.The Assistant Commissioner
Hindu Religious and Charitable
Endowment
Sattur, Virudhunagar District

3.The Executive Officer
Arulmigu Venkatachalapathy
Thirukovil
Hindu Religious and Charitable
Endowment
Sattur, Virudhunagar District

... Respondent / Petitioner

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 04.01.2017 made in W.P.(MD) No.93 of 2017, on the file of this Court.

Prayer in WP(MD) . 93/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned termination of lease notice caused by the 3rd respondent dated 26.08.2016 and quash the same as illegal and consequently direct the respondents to regularize the super structure constructed by the petitioner at Old Survey No. 121/16 and New Survey No. 17-19 bearing Door No. 68/16 of Sattur Town of Virudhunagar District by fixing fair rent to the property and to pass such further or other order as this Honble court.

<https://hcservices.ecourts.gov.in/hcservices/> For Appellant : Mr.R.Pandi Maharajan

For Respondents : Mr.V.R.Shanmuganathan
Special Government Pleader

**J U D G M E N T****[Judgment of the Court by T.S.SIVAGNANAM, J.]**

Heard Mr.R.Pandi Maharajan, learned counsel appearing for the appellant and Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing for the respondents and perused the materials produced.

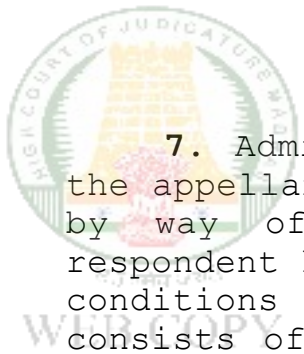
2. This writ appeal is directed against the order, dated 04.01.2017, made in W.P.(MD) No.93 of 2017.

3. The appellant / writ petitioner sought for issuance of a writ of certiorarified mandamus to set aside the order, dated 26.08.2016, passed by the third respondent and to direct the respondents to regularize the superstructure constructed by him at Old Survey No.121/16 and New Survey No.17-19, bearing Door No.68/16 of Sattur Town, Virudhunagar District, by fixing a fair rent to the property.

4. The appellant / writ petitioner earlier filed a writ petition in W.P.(MD) No.17241 of 2016, challenging the said order, dated 26.08.2016, passed by the third respondent. Thereafter, realizing that there is a revisional remedy available to him, the appellant / writ petitioner sought permission of the Court to withdraw the writ petition with liberty to file a revision before the appropriate forum. Accordingly, by order, dated 07.11.2016, the said writ petition was dismissed as withdrawn with liberty as prayed for.

5. Thereafter, the writ petitioner filed a revision before the first respondent / Revisional Authority, under Section 21-A of Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959. But, the Revisional Authority, vide Memo dated 29.11.2016, returned the appellant / writ petitioner's revision petition stating that it is a pre-mature one. Thereafter, the appellant / writ petitioner filed another writ petition, in W.P.(MD) No.93 of 2017, challenging the very same impugned order, dated 26.08.2016, and the said writ petition came to be dismissed by the learned Single Judge, by the impugned order, dated 04.01.2017, stating that the appellant / writ petitioner is not having any *bona fide* in his attempt in approaching the Court repeatedly on the same set of cause of action and it is well settled that filing of repeated writ petitions on the very same cause of action is an abuse of process of the Court.

6. After hearing the learned counsel for the parties and perusing the materials produced, we find that the first respondent, by Memo, dated 29.11.2016, returned the appellant / writ petitioner's revision petition on two grounds, namely, the lease has been terminated and consequently, no order of eviction has been passed.



7. Admittedly, as against the order of termination of lease, the appellant / writ petitioner has an effective alternative remedy by way of revision. Furthermore, since already the third respondent has taken a decision that the appellant has violated the conditions of licence / lease, put up a two storeyed construction consists of ten shops without permission and sub-let the same, we deem it appropriate to direct the first respondent to entertain the appellant / writ petitioner's revision petition and dispose the same on merits and in accordance with law.

8. Accordingly, the appellant / writ petitioner is directed to re-present the revision petition before the first respondent and on such re-presentation, the first respondent is directed to entertain the revision petition, issue notice to the third respondent and to dispose of the same on merits and in accordance with law. Such exercise shall be completed within a period of three months from the date of receipt of a copy of this Judgment. Till such time, the *status quo* as on date with regard to the building in question shall be maintained with no further additional construction and induction of no new sub-tenants in the premises. The appellant / writ petitioner is also directed to maintain a true and correct accounts and receipts from his sub-tenants.

9. Further, we find from the impugned order, dated, 04.01.2017, made in W.P.(MD) No.93 of 2017, that a cost of Rs.15,000/- (Rupees fifteen thousand only) has been imposed on the appellant / writ petitioner. Taking note of the above directions issued by us, the cost imposed on the appellant / writ petitioner stands deleted and instead, he is directed to remit a sum of **Rs.5,000/- (Rupees fifteen thousand only)** to the third respondent Temple by way of "**Donation to the Temple**" within a period of two weeks from the date of receipt of a copy of this Judgement.

10. The writ appeal is disposed of with the above directions. No costs.

Sd/-

Assistant Registrar(CS-III)

/TRUE COPY/

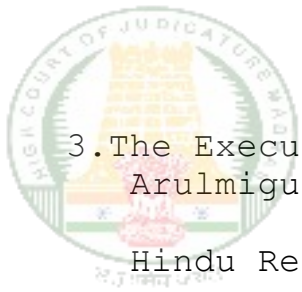
Sub Assistant Registrar

To:

1.The Joint Commissioner,
Hindu Religious and Charitable
Endowment,
Sivagangai, Sivagangai District.

<https://hcservices.ecourts.gov.in/hcservices/>

2.The Assistant Commissioner,
Hindu Religious and Charitable
Endowment,
Sattur, Virudhunagar District.



3.The Executive Officer,
Arulmigu Venkatachalapathy
Thirukovil,
Hindu Religious and Charitable
Endowment,
Sattur, Virudhunagar District.

+1 cc to M/R.P.PANDI MAHARAJA, Advocate, SR.NO:15551

+1 cc to M/S.SPECIAL GOVERNMENT PLEADER, SR.NO:15089

KRK

SVA/MR/21.03.2017/4P/6C

W.A. (MD) No.182 of 2017
15.03.2017