



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.10.2017

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THE HONOURABLE MR.JUSTICE R.MAHADEVANW.P(MD) No.15752 of 2017andWMP(MD) Nos.12475 and 12476 of 2017

K.Saravanan

... Petitioner

vs.

1.The Commissioner,
Hindu Religious and Charitable Endowment Dept.,
Chennai.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowment Dept.,
Madurai.

3.The Assistant Commissioner/Executive Officer,
Arulmigu Koodal Alagar Thirukkivil,
Madurai.

4.P.Citybabu
(R4 impleaded vide order dated 21.09.2017)

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari calling for the records pertaining to the impugned order passed by the 1st respondent in his proceedings in R.P.No.286/2017 D2 dated 07.08.2017 and quash the same as illegal.

For Petitioner	:	Mr.K.Chellapandian Senior Counsel for Mr.V.Malaiyendran
For RR - 1 & 2	:	Mr.J.Gunaseelan Muthiah Government Advocate
For R - 3	:	Mr.K.R.Lakshmanan
For R - 4	:	Mr.V.Nagendran

O R D E R

This writ petition has been filed seeking to quash the order passed by the first respondent in his proceedings in R.P.No.286/2017 D2 dated 07.08.2017.



2.The case of the petitioner in brief is as follows:

(i)The petitioner was the successful bidder in the auction conducted by the third respondent on 04.12.2012 and he was allotted a building on lease for a period of three years to carry on his business and as per the registered lease deed, the third respondent fixed monthly rent at Rs.11,000/- and the petitioner has also paid the entire auction amount. Since the lease period was going to end, the petitioner has given a representation dated 01.02.2016 to the third respondent seeking extension of lease period and the same was not considered by the third respondent. However, the petitioner was directed to vacate the building by 15.02.2016 and therefore, a suit for permanent injunction was filed by the petitioner and the same is pending.

(ii)The third respondent by proceedings dated 25.11.2016, directed the petitioner to hand over the possession of the building by 04.01.2017. While so, the petitioner submitted a representation before the third respondent requesting him to permit the petitioner to be in possession of the premises at an enhanced rent at the rate of 15% over and above the existing rent and the same was rejected by the third respondent on 17.06.2017. Aggrieved by the same, the petitioner has filed a revision petition before the first respondent and the same was also dismissed by the first respondent on 07.08.2017 rejecting his prayer to continue to be in possession of the premises. Challenging the same, the petitioner is before this Court with the above prayer.

3.The learned counsel for the petitioner would submit that the petitioner was paying rent without any default and now, he is ready and willing to pay enhanced rent at the rate of 15% over and above the existing rent and he has also filed an undertaking affidavit to that effect on 23.08.2017.

4.This Court, by order dated 06.10.2017, appointed an Advocate Commissioner to conduct fresh auction in respect of the building in question. As directed, auction was conducted on 11.10.2017 and the petitioner was declared as a successful bidder and monthly rent was fixed at Rs.49,000/-.

5.The learned counsel for the petitioner would submit that as per the terms and conditions, the petitioner has to pay 12 months rent in advance and accordingly, he has to pay Rs.5,88,000/- (Rs.49,000 X 12) in which, he has already paid Rupees two lakhs and odd.

6.In view of the above submission made by the learned counsel for the petitioner, advance rent at about Rs.3,00,000/- shall be made on or before 5th November, 2017 and the rest by 5th December, 2017.



7.The learned counsel for the fourth respondent seeks appropriate direction to refund the deposited amount made earlier.

8.Under such circumstances, the deposited amount made by the fourth respondent herein to the tune of Rs.5,40,000/- shall be refunded to him forthwith.

9.The earlier rent till the date of auction which actually the petitioner sent and subsequently returned by the authorities be resubmitted in a weeks time and the petitioner is directed to remit the present rent at the rate of Rs.49,000/- from the month of October 2017.

10.The Writ Petition is disposed of on the above terms. No costs. Consequently, WMP(MD)Nos.12475 and 12476 of 2017 are closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1.The Commissioner,
Hindu Religious and Charitable Endowment Dept.,
Chennai.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowment Dept.,
Madurai.

3.The Assistant Commissioner/Executive Officer,
Arulmigu Koodal Alagar Thirukkivil,
Madurai.

+1cc to Special Government Pleader, SR.No. 82800, 82917

+1cc to M/S.V.Nagendran, Advocate SR.No. 82598

+1cc to M/S.A.Balaji, Advocate SR.No. 82680

W.P(MD) No.15752 of 2017

12.10.2017

mj

JM/SV MMS/SAR 1/30.10.2017/3P/7C