



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 27.09.2017

CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

W.P (MD) No.18296 of 2017

and

W.M.P. (MD) No.14751 of 2017

Kousalya

.. Petitioner

Vs

1. The Joint Commissioner,
HR & CE Department,
Madurai-1.

2. The Assistant Commissioner,
HR & CE Department,
Madurai-1.

3. The President/Trustee,
Arulmigu Puttu Ursava Vagaiyara Kattalai,
Madurai-16.

.. Respondents.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records pertaining the impugned order of the first respondent vide Na.Ka.No.7458/2013/E1 dated 03.03.2016 and consequential impugned eviction notice issued by the second respondent vide Na.Ka.No.3464/2013-4/Aa1 dated 31.08.2017 and quash the same and consequently direct the second and third respondents forthwith to restore the possession of the house bearing Door No.49/11 situated at Puttuthoppu Main Road, Puttuthoppu, South Taluk, Madurai District to an extent of 623 sq. ft. to the petitioner by removing the lock and seal.

For Petitioner	: Mr.R.Pon Karthikeyan
For Respondents 1 & 2	: Mr.M.Alagadevan Spl. Govt. Pleader
For Respondent No.3	: Mr.M.Saravanan

ORDER

<https://hcservices.courts.gov.in/hcservices/> petition has been filed, seeking to quash the impugned order of the first respondent, dated 03.03.2016 and the

consequential eviction notice issued by the second respondent dated 31.08.2017 by which the petitioner was directed to vacate the premises or or before 19.09.2017.

2.Mr.M.Alagathevan, learned Special Government Pleader takes notice for the respondents 1 and 2 and Mr.M.Saravanan, learned counsel takes notice for the third respondent.

3.By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

4.The case of the petitioner is that he is a tenant under the third respondent and with the permission of the third respondent, the petitioner also constructed a small tiled house for residential purpose on the property. While so, the 3rd respondent had issued a notice as if the petitioner is an encroacher and defaulted in payment of rent. Though the petitioner has been paying the rent without any default, without any notice regarding fixation of fair rent, the third respondent has passed the impugned order of eviction. When the revision filed by the petitioner against the order passed in the review petition, is pending consideration by the 1st respondent, the impugned order came to be passed. Hence, aggrieved by the same, the petitioner is before this Court.

5.When the matter is taken up for hearing, the petitioner has handed over two Demand Drafts, dated 22.09.2017, drawn on Indian Bank, High Court Branch, Madurai (1) D.D.No.385103 for Rs.49,000/- and (2) D.D.No.385104 for Rs.7109.00/-, towards arrears of rent to the learned counsel for the third respondent and he has also received the same.

6. In view of the above payment, the petitioner is directed to pay the fair rent as fixed by the third respondent without any default and honour the commitment in future. Agreeing to pay the rent to be fixed by the third respondent, the respondents, especially respondent No.2 is directed to drop all other proceedings pending against the petitioner. However, it is made clear that in the event of the petitioner committing any default in compliance of remittance of monthly rent, the respondents are at liberty to evict the petitioner forthwith.

7.With the above direction, this petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Vacation Officer



To

1. The Joint Commissioner,
HR & CE Department,
Madurai-1.

2. The Assistant Commissioner,
HR & CE Department,
Madurai-1.

+ 1 CC TO MR.R.Pon Karthikeyan, ADVOCATE IN SR No.81236

+ 1 CC TO MR.M.Saravanan, ADVOCATE IN SR No.81204

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No.13845

vsn

MK/SV MMS/SAR-4/03.10.2017/3P/6C

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