

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.6243 OF 2017

ORDER:

The Order dated 21.12.2016 in O.A.No.72 of 2012, passed by the 2nd respondent, holding the petitioner as an encroacher is challenged before this Court.

The facts in brief are that the petitioner was inducted as a tenant of the 4th respondent temple in the year 1967 and from time to time petitioner's lease rental has been increased by the respondent and the same is being paid by the petitioner. While the things stood thus, 3rd and 4th respondents have filed O.A.No.72 of 2012, on the file of 2nd respondent-The Telangana Endowments Tribunal at Hyderabad, seeking eviction of the petitioner and accordingly, the Tribunal has allowed the said O.A. declaring the petitioner as an encroacher and directed the respondent authorities to remove the petitioner from the schedule premises. Challenging the said order present Writ Petition is filed on the ground that subsequent to the notice dated 10.10.2011, 4th respondent has been receiving the rents every month, as such the notice under Section 83(1) of A.P. Charitable Hindu Religious Institutions Endowments Act, 1987 (in short "the Act") is not applicable and no proper notice under Section 75 of the Act was issued to the petitioner and since the petitioner has been paying rents regularly the Tribunal ought not to have declared the petitioner as an encroacher. Hence, prayed for setting aside the impugned order.

Heard the learned Government Pleader for Endowments.

The fact that the petitioner has been inducted into the schedule property in 1967 is not in dispute. The petitioner was issued notice of termination on 10.10.2011, thereafter as the petitioner had not complied with the notice, O.A.No.72 of 2012 was filed on the file of the 2nd respondent. Pending proceedings in O.A. an Interlocutory Application in I.A.No.113 of 2012 was filed by the respondent-temple seeking a direction to the petitioner herein to pay a sum of Rs.7,200/- per month with effect from 01.01.2012, which the petitioner had

complied with. There being no written lease agreement in favour of the petitioner, Tribunal had treated the lease on a month to month basis. Admittedly, though a quit notice has been issued on 10.10.2011, the O.A. came to be filed only in the month of December, 2011, which was eventually numbered on 18.01.2012. There is no allegation in the writ petition that the petitioner did not have an opportunity to represent before the Tribunal. In other words, the principles of natural justice has been complied with. The Tribunal also after trial and after marking the documents, both on behalf of the petitioner as well as the respondent, the impugned eviction order has been passed. In the circumstances, there being no infirmity in the order of the Tribunal, the same does not call for any interference. However, considering the fact that the petitioner has been in possession and enjoyment of the schedule property and the petitioner is running printing press there, this Court is inclined to grant two months time, from the date of receipt of a copy of this order, to the petitioner, to vacate the schedule premises. In the event the petitioner does not vacate the premises, respondent authorities shall be at liberty to take possession of the property in accordance with the amended Rules i.e., Rule 15 as substituted by G.O.Ms.No.426, dated 09.11.2015.

Accordingly, this Writ Petition is disposed of. There shall be no order as to costs.

As a sequel to disposal of the writ petition, W.P.M.Ps., if any, pending shall stand disposed of.

CHALLA KODANDA RAM, J

Date:06.04.2017.
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