

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2018

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.A.No.1157 of 2018
and
C.M.P.No.9281 of 2018

E.Thiruvengadam

Appellant

-vs-

- 1.The Principal Secretary to Government,
Hindu Religious and Charitable Endowments Department,
Fort St.George, Secretariat,
Chennai-600 009.
- 2.The Commissioner,
Hindu Religious and Charitable Endowment Board,
Uthamar Gandhi Road, Nungambakkam,
Chennai-600 034.
- 3.The Joint Commissioner,
Hindu Religious and Charitable Endowment Board,
Uthamar Gandhi Road, Nungambakkam,
Chennai-600 034.
- 4.The Executive Officer,
Arulmighu Thiruvaleeswarar Thirukkoil,
Guruthalam Office, Padi,
Chennai-600 050.

5.S.Balasubramaniam

6.A.Marimuthu

Respondents

Appeal filed under Clause 15 of Letters Patent, against the order passed by this Court in W.P.No.8281 of 2018 dated 09.04.2018.

WP.NO.8281/2018:

Writ Petition filed under Article 226 of the Constitution of India, praying for the issue of Writ of Certiorarified Mandamus, Call for records pertaining to the order in G.O.No.30 dated

26.02.2018 on the file of the 1st respondent arising out of the order in Na.Ka. No.19804/2014/R2 dated 11.07.2014 on the file of the 2nd respondent and to quash the same as unconstitutional and also direct the respondents 1 to 4 to accept the petitioner as tenant in respect of the property comprised in Survey No.295/3 Situate at Door No.1/38 Amman Koil Street, Thevar Nagar, Padi, Chennai-050.

For Appellant :: Dr.G.Krishnamurthy

For Respondents:: Mr.Maharajan,
Spl.GP (HR & CE) for R1 to R4

JUDGMENT

(Delivered by HULUVADI G.RAMESH, J.)

The property comprised in S.No.295/3, situated at No.38, Amman Koil Street, Padi, Chennai having an extent of 1763 sq.ft. was originally allotted to one Balasubramaniam by the Executive Officer of Arulmighu Thiruvalléeswarar Thirukkoil, Guruthalam Office, Padi on 01.02.1989. The said Balasubramaniam, in-turn, sold one portion of the land measuring about 729 sq.ft. at No.1/38, Amman Koil Street, Padi to one Sampath on 25.03.1993. The said Sampath sold the superstructure having an extent of 729 sq.ft. to one Marimuthu on 07.02.2000. After three years of enjoyment and occupation, the appellant entered into an agreement with the said Marimuthu and subsequently purchased the superstructure of the property measuring 729 sq.ft on 20.08.2003, which has not been registered. Thereafter, the appellant approached the respondents 1 to 4 seeking them to accept him as a tenant in respect of the aforementioned property on the basis of the representation given on 21.12.2012. Finding no response, the appellant has filed a writ petition in W.P.No.29854 of 2012 seeking a direction to the respondents 1 to 4 to consider his representation dated 21.12.2012. This Court, considering the limited prayer and also without going into the merits of the matter, directed the respondents to consider the representation of the appellant in accordance with law. Accordingly, the second respondent has considered the representation and rejected the request of the appellant to accept him as a tenant in respect of the superstructure of the property, against which, he preferred a revision before the first respondent and the same was also rejected.

2.The appellant filed a writ petition before this Court in W.P.No.8281 of 2018 challenging the order dated 26.02.2018 in G.O.No.30, Tourism, Culture and Religious Endowments Department, passed by the first respondent, rejecting his revision petition by confirming the order dated 11.07.2014 passed by the

Commissioner, Hindu Religious and Charitable Endowment Board, the second respondent herein. This Court rejected the writ petition by order dated 09.04.2018 on the ground that the appellant has not approached the Court with clean hands.

3.Challenging the said order, the appellant is before this Court with this writ appeal.

4.The learned counsel for the appellant has submitted that the learned single Judge has not discussed the implied permission granted by the respondents 1 to 4 who allowed the appellant to occupy the premises from 1993. He also submitted that the practice of transfer of tenancy is impliedly allowed not only to the premises of the appellant, but also at various places in Tamil Nadu, where the HR & CE properties are leased out.

5.The learned Special Government Pleader appearing for the respondents 1 to 4 has submitted that the fourth respondent has filed a civil suit in O.S.No.346 of 2014 before the District Munsif, Ambattur, against the original allottee on the ground that he has become a chronic defaulter, and obtained an order of interim injunction not to make any further constructions and in spite of the same, further constructions were made in the property. He further submitted that during the pendency of the suit, the appellant cannot make any payment whatsoever to the fourth respondent merely on the ground that the appellant has entered into an agreement dated 20.08.2003, which is not even a registered one and therefore, the appellant cannot ask the respondents 1 and 2 to accept him as tenant in respect of the property in question.

6.Heard the learned counsel on either side and perused the materials available on record.

7.It has been noticed by the learned single Judge that the claim made by the appellant that he has entered into an agreement with one Marimuthu for purchasing only the superstructure of the property measuring 729 sq.ft. appears to be a false claim, because there is no registered lease agreement with Mr.Balasubramanian. It has also been observed that even if it is considered that the appellant has purchased the property from his vendor Marimuthu, that purchase also cannot have any legal sanctity, as there is no registered document. We do not find any reason to interfere with the said factual observation made by the learned single Judge. Further, in the suit filed by the temple before the District Munsif Court, Ambattur, in O.S.No.346 of 2014, only an order of interim injunction has been passed and the matter is pending for final disposal.

8.In view of the above stated circumstances, the writ appeal fails and accordingly the same is dismissed. No costs. Consequently the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

KM

To

- 1.The Principal Secretary to Government,
Government of Tamil Nadu,
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Chennai-600 050.

+lcc to Special Government Pleader(HR & CE) sr.no.36683

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