

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.8281 of 2018
and W.M.P.Nos.10239 and 10240 of 2018

E.Thiurvengadam

.. Petitioner

-vs-

1.The Principal Secretary to Government
Hindu Religious and Charitable
Endowment 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,
Arulmigu Thiruvalléeswarar Thirukkoil
Guruthalam Office, Padi
Chennai - 600 050.

5.S.Balasubramaniam

6.A.Marimuthu

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, call for the 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 - 600 050.

For Petitioner :: Dr.G.Krishnamurthy

For Respondents :: Mr.M.Maharaja,
 Spl. Govt Pleader (HR & CE)
 for R1 to R4

ORDER

This writ petition has been filed challenging the impugned 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, second respondent herein.

2. The learned counsel appearing for the petitioner while assailing the impugned order submits that 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 Mr.Balasubramaniam by the Executive Officer of Arulmighu Thiruvalléeswarar Thirukkōil, 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 Mr.Sampath on 25.03.1993. The said Sampath conveyed the superstructure having an extent of 729 sq.ft. to one Marimuthu on 07.02.2000. After three years of enjoyment and occupation, the petitioner 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 petitioner 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 petitioner has filed a writ petition in W.P.No.29854 of 2012 seeking for 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 petitioner in accordance with law. Accordingly, the second respondent has rejected the request of the petitioner to accept him as a tenant in respect of the superstructure of the property. As against which, the petitioner preferred a revision before the first respondent and the first respondent also rejected his claim. Therefore, the petitioner has come to this Court. Since the petitioner is a lawful owner of the superstructure purchased from his vendor Marimuthu, the impugned order passed by the respondents 1 and 2 are liable to be quashed.

3. Opposing the above prayer, the learned Special Government Pleader appearing for the respondents urged this Court to dismiss the writ petition and submits that when 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, during the pendency of the Suit, the petitioner cannot make any payment whatsoever to the 4th respondent merely on the ground that the petitioner has entered into an agreement dated 20.08.2003, which is not even a registered one and therefore, the petitioner cannot ask for the respondents 1 and 2 to accept him as tenant in respect of the aforementioned property.

4. The suit filed by the Executive of Officer of fourth respondent temple is for permanent injunction against the defendant Mr.Balasubramaniam and also for mandatory injunction with a consequential relief to demolish the new additional constructions put up in the suit property for the defendant. During the pendency of the suit against the original allottee, who became a chronic defaulter, if the present writ petition is entertained, this will have a serious replication on the pending suit.

5. This Court finds merits on the submission made by the learned Special Government Pleader (HR & CE). Firstly when the petitioner comes to this Court, he should come with clear hand. As a matter of fact, the claim made by the petitioner that he has entered into an agreement with one Marimuthu on 20.08.2003, merely shows that it is not even a registered agreement. Therefore, the request of the petitioner made before the second respondent was rightly rejected. As against that one revision was preferred before the first respondent and the first respondent having considered the claim of the petitioner as unacceptable and invaluable, rightly rejected the same.

6. Secondly, the claim made by the petitioner that he has entered into an agreement with one Marimuthu for purchasing only the superstructure of the property measuring 729 sq. ft also appears to be a false claim, because there is no registered lease agreement with Mr.Balasubramanian. Even if it is considered that the petitioner has purchased the property from his vendor Marimuthu, that purchase also cannot have any legal sanctity, as there is no registered document.

7. Therefore, this writ petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Deputy Registrar

/true copy/

Sub Asst. Registrar

vsm

To

- 1.The Principal Secretary,
Government of Tamil Naddu
Hindu Religious and Charitable
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Chennai - 600 009.
 - 2.The Commissioner
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 - 4.The Executive Officer,
Arulmigu Thiruvalléeswarar Thirukkoil
Guruthalam Office, Padi
Chennai - 600 050.
- + 1 cc to Dr.G.Krishnamurthy Advocate, SR.26174
+ 1 cc to The Govt.Pleader, SR.26436

W.P.No.8281 of 2018

nr 02/05/2018