

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.04.2018

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THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.9590 of 2018 and
WMP.Nos.11509 and 11510 of 2018

A.Thiruvarangan

...Petitioner

Versus

1. The Commissioner,
The Hindu Religious Charitable Endowments
Department, 119, Uthamar Gandhi Salai,
Nungambakkam, Chennai-34.

2. The Joint Commissioner,
Arulmighu Shree Arunachaleswarar Thirukoil,
Thiruvannamalai Devasthanam,
Thiruvannamalai.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to regularise the petitioner's occupation in Old No.18/4, New Door No.30/4, Arunachalapuram Main Road, Adyar, Chennai-20 as tenant of Arulmigu Shree Arunachaleswarar Thirukovil, Thiruvannamalai Devasthanam, within the time prescribed by this Court.

For Petitioner : Mr.K.Sakthivel

For Respondents : Mr.M.Maharaja,
Special Government Pleader
(HR&CE)

ORDER

The Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the respondents to regularise the petitioner's occupation in Old Door No.18/4, New Door No.30/4, Arunachalapuram Main Road, Adyar, Chennai-20 as a tenant of Arulmigu Shree Arunachaleswarar Thirukovil, Thiruvannamalai Devasthanam, within a stipulated period fixed by this Court.

2. Learned Counsel appearing for the petitioner submitted that the petitioner's family has been living in Old Door No.18/4 and New Door No.30/4, Arunachalapuram Main Street, Adyar, Chennai-20 from 1940. The said property belongs to Arulmighu Shree Arunachaleswarar Thirukoil, Thiruvannamalai Devasthanam, Thiruvannamalai. The petitioner's father was provided with a Ration Card during 1945 and at that point of time, the Door Number of his property was also shown as 67, Arunachalapuram. Thereafter, his father constructed a house in the aforesaid address. After his death, Petitioner's mother and brothers including the petitioner are residing in the said house. Since then, they were making representations to recognize their occupation by granting lease as they were also prepared to pay the lease amount. In the said representation, they have also mentioned that they do not have any other house to live. But the representation of the petitioner's family to the 2nd respondent on 21.2.2002 requesting to grant lease in favour of them has not been

considered. In the meanwhile, one Pandari Bai claiming to be the owner of the property which is in petitioner's occupation sent a notice to vacate the premises on the ground that the petitioner has not paid the rent amount and this apart, the said Pandari Bai filed a Civil Suit in O.S.No.13734/2010 on the file of the learned 6th Assistant Judge, City Civil Court, Chennai for eviction of her mother from the above said property. However, during the pendency of the said suit, the petitioner's mother expired and legal heirs were impleaded as parties.

3. The learned Counsel for the petitioner further submitted that the said suit was also dismissed on 6.8.2013 declaring clearly that the said property belongs to Arulmigu Shree Arunachaleswarar Thirukovil. Subsequently, the petitioner again preferred a representation dated 02.02.2011 to the 2nd respondent to grant lease of the above property and thereafter, preferred W.P.No.9064/2011 before this Court and this Court by order dated 11.4.2011 directed the 2nd respondent to consider and pass appropriate orders on the said representation within a period of 8 weeks. But till date, the 2nd respondent has not considered the request of the petitioner. Therefore, the petitioner has filed the present Writ Petition for Writ of Mandamus directing the respondents to regularise the petitioner's occupation in Old Door No.18/4, New Door No.30/4, Arunachalapuram Main Road, Adyar, Chennai-20 as tenant of Arulmigu Shree Arunachaleswarar Thirukovil, Thiruvannamalai Devasthanam.

4. Heard Mr.M.Maharaja, learned Special Government Pleader appearing for the respondents.

5. The petitioner has come to this Court with an unusual prayer to issue a Writ of Mandamus, directing the respondents landlord to regularise the petitioner's occupation in Old Door No.18/4, New Door No.30/4, Arunachalapuram Main Road, Adyar, Chennai-20 as a tenant of the said temple land.

6. The learned Counsel for the petitioner submitted that the petitioner's family has been in possession of the property belonging to the 2nd respondent Temple from 1945. But not even a single documentary evidence has been produced before this Court to show that the petitioner's family was accepted or considered by the temple as tenant. Besides, there is no acceptable document to show that they have paid rent either to the temple or to anyone claiming to be a tenant of the temple at any point of time. Merely, a judgment passed by the Civil Court in O.S.No.13734/2010 by the learned 6th Assistant Judge, City Civil Court, Chennai has been shown. When the suit was filed by Tmt.Pandari Bai and two others against the petitioner's family seeking a declaration that the plaintiff was the absolute owner of the property, in respect of the consequential direction to the defendants to vacate and hand over vacant possession of the property, the said suit

was also dismissed. It is not known how the dismissal of the suit filed by Mrs.Pandari Bai can be taken as a supportive document.

7. Since the petitioner has sought for a direction to regularise him as a tenant of the 2nd respondent temple, first of all, he should have established before this Court that at any point of time Arulmigu Shree Arunachaleswarar Thirukovil, Thiruvannamalai Devasthanam has accepted him as a tenant. Ironically, no such document has been produced. Secondly, the petitioner cannot come to this Court seeking Madamus to direct any landlord to regularise the petitioner's occupation in the suit property. Thirdly, when the petitioner has not produced any document to show that at any point of time he has paid the rent to the temple, his prayer to direct the respondents to regularise his occupation in the place-in-question as a tenant of Arulmigu Shree Arunachaleswarar Thirukovil, Thiruvannamalai Devasthanam is wholly misconceived. Even the judgment passed by the 6th Assistant Judge, City Civil Court, Chennai in O.S.No.13734/2010 dated 06.08.2013 also shows that when the suit was filed against the petitioner's father by one Tmt.Pandari Bai and two others for declaration of title over the suit property, the petitioner as a defendant therein denied the title of the plaintiff and that also shows that he has neither paid rent to anyone including the respondent temple. Therefore, he cannot be considered as a tenant under the temple. The aforementioned facts clearly shows that the

petitioner has not come to this Court with clean hands. This Court is also surprised to see how the petitioner claiming to be the tenant can continue in possession of the property belonging to the temple without proving his tenancy by paying any rent. The non-payment of rent either by his father or mother or by his family members from 1950 clearly shows that he is a rank trespasser, liable to be evicted. Hence, this Court, finding that no supportive document has been produced by the petitioner, hereby directs the respondents to evict the petitioner from the property-in-question and take over the possession of the property. If necessary, the respondents are at liberty to approach the nearby police station having jurisdiction over the property to secure the vacant land from the petitioner.

8. Since the valuable time of the Court has been wasted by the petitioner, this Court is inclined to impose a cost of Rs.25,000/- (Rupees Twenty Five Thousand Only) payable by the petitioner to the Mediation and Conciliation Centre attached to this Court, within a period of four weeks from the date of receipt of a copy of this Order.

9. With the above direction and observation, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

19.04.2018

Index:Yes/No

<http://www.judis.nic.in>

Internet:Yes/No

Note : Issue order copy on 25.04.2018

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To

1. The Commissioner,
The Hindu Religious Charitable Endowments
Department, 119, Uthamar Gandhi Salai,
Nungambakkam, Chennai-34.
2. The Joint Commissioner,
Arulmighu Shree Arunachaleswarar Thirukoil,
Thiruvannamalai Devasthanam, Thiruvannamalai.



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T.RAJA, J.
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