

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 5.10.2018

CORAM
THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.A.No.1531 of 2018
and
C.M.P.No.12335 of 2018

R.Thangavel

...Appellant

Versus

The Executive Officer
Arulmighu Soleeswaraswamy Temple
Perundurai Erode District.

....Respondent

Prayer: Writ Appeal filed filed under Clause 15 of the Letters Patent against the order dated 7.3.2018 passed in W.P.No.5124 of 2018 on the file of this court. Petition filed under Article 226 of the constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order dated 20.02.2017 issued by one respondent herein and to quash the same and consequents to recognize the petition as a lessee to lend in Survey No. 719/3, Perundurai Village and put in possession of the same.

For appellant : Mr.D.Balachandran

For respondent : Mr.Maharaja,
Special Government Pleader

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the appellant and Mr.Maharaja, learned Special Government Pleader, who takes notice on behalf of the respondents.

2. The writ appeal has been filed by the writ petitioner challenging the order passed by the learned Single Judge in dismissing the writ petition filed by him seeking a relief of quashing the order, which sought to evict him from the temple premises and a further relief of a direction to the temple authorities to recognise him as a lessee to the premises in question.

3. Having heard the learned counsel appearing for the parties and perused the order passed by the learned Single Judge, especially para 4 of the order, we find that the appellant/petitioner claims leasehold right over the premises in question by contending that originally, the lease was granted in favour of his father and after the death of his father, he runs the hotel business in the said premises, but, the stand of the respondent-Temple appears to be that after the expiry of the said lease, no further lease was entered into between the parties and the temple authorities are not inclined to permit continuance of the hotel business inside the temple premises. It is further seen that the appellant/petitioner had already approached the Civil Court by filing a parallel proceeding in O.S.No.37 of 2017 seeking the relief of permanent injunction and as such, the learned Single Judge dismissed the writ petition on the ground that the appellant/petitioner cannot resort the same remedy simultaneously before two forums.

4. As rightly observed by the learned Single Judge, when a civil dispute is pending between the parties on the same issue, the appellant cannot maintain parallel proceedings before this court, especially when the issue being one involving disputed questions. Therefore, it is for the appellant/writ petitioner to await the decision of the civil court and writ appeal or writ petition cannot be kept pending without any purpose. If at all the appellant/writ petitioner is aggrieved by the order impugned in the writ petition, it is for the appellant/writ petitioner to approach the civil court where the lis on the issue is pending. Accordingly, the writ appeal is disposed of. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ssk.

To:

The Executive Officer
Arulmighu Soleeswaraswamy Temple
Perundurai Erode District.

+1cc to Mr.D.Balachandran, Advocate, S.R.No.68800

W.A.No.1531 of 2018

MP (CO)

rrs 03/12/2018