

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:26.02.2018

C O R A M

THE HON'BLE Mr.JUSTICE K. RAVICHANDRABAABU

W.P.No.3934 of 2018

and

W.M.P Nos.4828 to 4830 of 2018

A.Chandramohan

...Petitioner

vs

1.The Commissioner,
Hindu Religious and Charitable
Endowments Admin Department,
Chennai 600 034.

2.The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
Madurai 625 001.

3.The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Department,
Madurai 625 001.

4.Arulmighu Puttu Urchava Vagaiyara Kattalai,
Rep. by its Managing Trustee,
No.23, Puttuthoppu Main Road,
Madurai 625 016.

...Respondents

Prayer:Writ petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorarified mandamus to call for the records of the impugned order in R.P.No.343/2017 D2 dated 13.02.2018 passed by the first respondent and quash the same as illegal and consequently direct the third respondent to remove the seal and open the tenanted premises of the petitioner in Survey No.1187/2, Sekkadi Street, Puttuthoppu Campus, Madurai 625 001.

For petitioner : Mr.M.Kannan
For Respondents : Mr.M.Maharaja for R1 to R3
Special Government Pleader
Mr.V.Srikanth for R4

ORDER

This writ petition is filed challenging the order of the first respondent dated 13.02.2018 and consequently, directing the third respondent to remove the seal and open the tenanted premises of the petitioner in Survey No.1187/2, Sekkadi Street, Puttuthoppu Campus, Madurai 625 001.

2.When the matter was posted for admission on 22.02.2018, Mr.M.Maharaja, learned Special Government Pleader took notice for the respondents 1 to 3 and sought time to get instructions. Accordingly, the matter is listed today again for further hearing. Mr.V.Srikanth, learned counsel takes notice for the fourth respondent. By consent, the main writ petition itself is taken up for final disposal, as the issue involved in this case is lying in a narrow campus, which can be decided without the rival pleadings of the respondents.

3.The impugned order of the first respondent directed the sealing of the petitioner premises, since the petitioner was not willing

to settle the arrears, which is more than Rs.40,00,000/-, as a condition to hear the revision pending before the first respondent.

4. The main contention of the petitioner before this Court is that the impugned order of the first respondent is in clear violation of the order passed by the Division Bench of this Court in W.A.(MD) No.1290 of 2014 and W.A.(MD) No.1007 of 2015 dated 09.08.2017, wherein the Division Bench has only directed the petitioner herein to pay a sum of Rs.10,00,000/- and consequently directed the revision filed before the second respondent to be disposed of on merits. Therefore, it is contended that when the petitioner has paid the said sum of Rs.10,00,000/- as directed by this Court, the first respondent is not either justified or entitled to impose further condition for payment of Rs.40 lakhs as a condition precedent for hearing the revision. Therefore, it is contended that the very direction issued by the first respondent to seal the premises of the petitioner for non payment of Rs.40 lakhs is against the order already issued by the Division Bench.

5. Learned counsels appearing for the respondents though fairly admitted to the position that the Division Bench of this Court in the above writ appeals has directed the petitioner to pay only a sum of

Rs.10 lakhs and further directed the first respondent to dispose of the appeal on merits, considering the huge arrears payable by the petitioner, the first respondent has chosen to pass the said order impugned in this writ petition however, without any intention either to disobey or contradict the order already passed by this Court.

6. Upon hearing both sides, it is seen that the petitioner herein was already directed by the Division Bench of this Court to pay only a sum of Rs.10 lakhs and consequently, directed the first respondent herein to dispose of the appeal on merits and in accordance with law. There is no dispute to the fact that the petitioner has paid the said sum of RS.10 lakhs. When such being the position, the first respondent is not justified in passing the impugned order, which in my considered view, is an outcome of over enthusiasm shown to safeguard the revenue of the temple.

7. Needless to say that only when the matter is decided on merits by the first respondent, the actual liability of the petitioner will be known. Therefore, this Court is of the view that the impugned order cannot be sustained however, without expressing any view on the merits of the contention raised by both parties in respect of

payment of arrears. Thus, the writ petition is allowed and the impugned order is set aside and consequently, the third respondent is directed to desal the premises forthwith. The first respondent is directed to take up the revision and dispose of the same on merits and in accordance with law, after hearing all the parties concerned, including the petitioner and the fourth respondent. Such exercise shall be done by the first respondent within a period of two weeks from the date of receipt of a copy of this order. The petitioner is directed to cooperate with the first respondent for disposal of the revision within the time stipulated by this Court by making his appearance either by himself or through his counsel before the first respondent. If the petitioner or his counsel fails to appear for enquiry within the time stipulated by this court, it is open to the first respondent to dispose of the appeal/revision on its own merits and in accordance with law, based on the materials already placed before the first respondent. No costs. The connected miscellaneous petitions are closed.

WEB COPY

26.02.2018

Speaking/Non Speaking
Index :Yes/No
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Note:Issue copy on 26.02.2018.
vri

K.RAVICHANDRABAABU,J.

vri

To

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