

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2018

CORAM

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

W.A.No.315 of 2018

N.Sree Ramamurthy

..Appellant/Petitioner

-vs-

- 1.The Commissioner,
HR & CE Department,
Chennai.
- 2.The Joint Commissioner,
HR & CE Department,
Vellore.
- 3.The Executive Officer,
Arulmigu Padalathri Narashimma Perumal Temple,
Singaperumal Koil,
Kancheepuram District. Respondents/Respondents

Appeal filed under Clause 15 of Letters Patent, against the order passed by this Court in W.P.No.12069 of 2012 dated 31.10.2017.

WP.No.12069/2012:Writ Petition praying for the issuance of Writ of Certiorari to call for the records relating to 3rd Respondents proceedings Na.Ka.No.Nil, dated 01/04/2013 and to quash the same.

For Appellant :: Mr.M.Muthappan

For Respondents:: Mr.Maharajan, Spl.GP (HR & CE)
for R1 and R2

M/s.A.S.Kailasam & Associates
for R3

JUDGMENT

(Delivered by HULUVADI G.RAMESH, J.)

The vacant land comprised in S.No.58 to the extent of about 4.00 acres belonging to the third respondent-Temple was initially leased out to the appellant herein and to that effect a lease deed was executed on 24.07.1992 for a period of three years on the monthly rent of Rs.775/- with an advance of Rs.3000/-. The appellant was about to be evicted from the premises at one point of time. The initial rent fixed was revised from time to time and on 24.03.2008, the Joint Commissioner, Hindu Religious and Charitable Endowments Department, Vellore, extended the lease for a period of one year by fixing the rent as Rs.20/- per sq.ft. with effect from the year 2001. Finally, the appellant was directed to pay a sum of Rs.9,61,770/- as arrears of rent, besides a sum of Rs.6,300/- towards advance and donation of Rs.1,57,500/-. Aggrieved by the same, the appellant preferred an appeal before the first respondent Commissioner and the same was dismissed. Finally the proceedings dated 01.04.2013 has been issued by the third respondent, directing the appellant to pay the dues to the tune of Rs.14,01,642/- pending as on 31.03.2013 and also informing that if the said amount is not paid, the appellant would be treated as an encroacher and legal action would be taken to recover the rent amounts.

2.Challenging the same, the appellant filed the writ petition in W.P.No.12069 of 2013 and the same was disposed of by order dated 31.10.2017 observing that if the amount had not been paid, the authorities will have to initiate action in terms of Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act. The appellant was also directed to vacate the premises within a period of 45 days from the date of the copy of the order, and failure to do so will entitle the authorities to enter the premises with police help. Challenging the order passed in the writ petition, the present writ appeal has been filed.

3.The learned counsel for the appellant has submitted that the learned single Judge has erred in holding that the appellant could not continue as tenant beyond the period of 5 years since it has been prohibited under the provisions of the Tamil Nadu Hindu Religious and Charitable Endowments Act. He also submitted that the direction of the learned single Judge to the appellant to vacate the premises within 45 days from the date of receipt of the order, is beyond the scope of the notice issued by the third respondent. Stating so, he prayed for quashing the order passed by the learned single Judge and consequently to quash the order dated 01.04.2013 issued by the third respondent, which has

been impugned in the writ petition.

4.Per contra, the learned Special Government Pleader appearing for the respondent-Department has submitted that the learned single Judge has considered the matter in proper perspective and has passed the impugned order, which does not require any interference in the hands of this Court.

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

6.On a perusal of the papers, it appears that initially the temple land in question was leased out to the appellant for a period of three years and thereafter, the lease was renewed and rent amount was revised from time to time. Further it appears that the third respondent temple informed the appellant by communication dated 18.11.2010 that after adjusting all the amounts paid by him, the balance payable would be Rs.13,24,008/-. The appellant was in occupation of the temple's property for more than five years. As per Section 34 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, the temple authorities shall extend the lease period, provided the Commissioner permits by an order in writing and when such order does not exist in the present case, the appellant is a trespasser and he has to be evicted. In such circumstances, the learned single Judge has passed the impugned order observing that the authorities will have to initiate action in terms of Section 78 of the Act. Since there was no extension of lease period, the appellant was directed to vacate the premises.

7.We find no illegality or infirmity in the impugned order passed by the learned single Judge so as to warrant interference. Thus, while not interfering with the impugned order, the appellant is directed to pay the arrears amount within a period of three months from the date of receipt of a copy of this judgment. Failure to pay the arrears within three months as stated above, will attract interest at the rate of 15% per annum, which shall be recovered by the respondents. It is also ordered that the appellant has to vacate the temple's property within a period of three months from the date of receipt of a copy of this judgment.

8.The writ appeal is disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

KM

To

1.The Commissioner,
HR & CE Department,
Chennai.

2.The Joint Commissioner,
HR & CE Department,
Vellore.

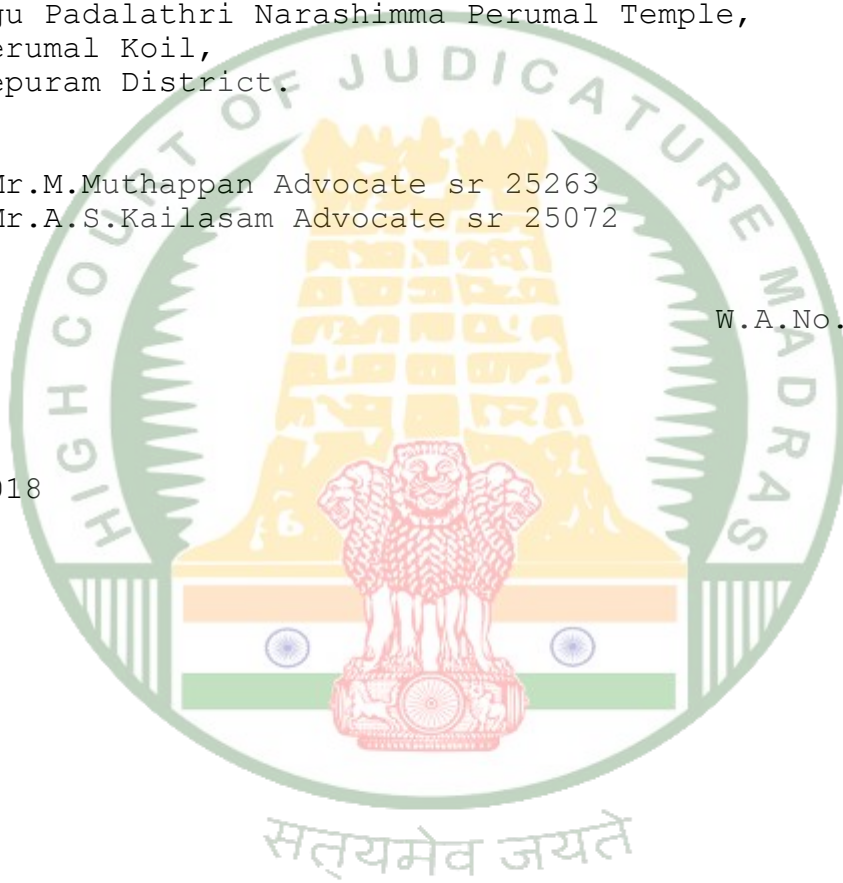
3.The Executive Officer,
Arulmigu Padalathri Narashimma Perumal Temple,
Singaperumal Koil,
Kancheepuram District.

+1 cc to Mr.M.Muthappan Advocate sr 25263

+1 cc to Mr.A.S.Kailasam Advocate sr 25072

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