

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 03.07.2018
CORAM
THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.Nos.30043 & 30044 of 2013
and M.P.No.1 of 2013 in
WP.No.30043 of 2013

K.Venkatesan

..Petitioner in both the petitions

Vs

1. The Secretary to Government
Tamil Development, Religious Endowments
and Information department
Fort St.George
Chennai - 600 009.
2. The Commissioner
Hindu Religious and Charitable
Endowments Department
Uthamar Gandhi Road
Nungambakkam
Chennai - 600 034.
3. The Joint Commissioner
Hindu Religious and Charitable
Endowments Department
Sathuvachari, Vellore.
4. The Executive Officer
Arulmighu Vaikundaperumal Thirukoil,
Kancheepuram,
Office at Kachabeswar Temple
Nellukara Street, Kancheepuram

..Respondents in both the petitions

Prayer in W.P.No.30043 of 2013:- Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus to call for the records pertaining to the notice dated 20.09.2013 (signed on 19.09.2013) issued by the 4th respondent in respect of Door No.13F Vaikundaperumal Kovil Sannithi Street, Kancheepuram and quash the same and consequently direct the 4th respondent not to take action against the petitioner pursuant to the notice dated 20.09.2013 (signed on 19.09.2013).

Prayer in W.P.No.30044 of 2013:- Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari to call for the records pertaining to the notice dated 17.07.2012 issued by the 4th respondent in respect of Door No.13F, Vaikundaperumal Kovil Sannithi Street, Kancheepuram and quash the same.

For Petitioner : Mr.M.S.Subramanian
For Respondents : Mr.M.Maharaja, for R1 to R3
Special Government Pleader (HR & CE)
Mr.S.Kandasamy, for R4

COMMON ORDER

Heard the learned counsel for the petitioner, the learned Special Government Pleader appearing for the respondents 1 to 3 and the learned Counsel for the 4th respondent.

2. The petitioner has filed these writ petitions challenging the notice for demand of revision of rent and the termination of tenancy passed by the 4th respondent.

3. The learned Counsel for the petitioner would submit that the petitioner is in possession of smaller extent of land, but the respondents have fixed the revised rent for larger extent of land. Moreover, the revision of rent was not communicated to him, as per Section 34 (A) (2) of the Tamil Nadu Hindu Religious and Charitable Endowments Act and further the opportunity of filing an appeal under Section 34 (A) (3) has been curtailed.

4. The learned Special Government Pleader submitted that the petitioner is using the temple property partly for residential purpose and remaining area for commercial occupation. It is further submitted that the revised rent has been fixed by the committee as per Section 34(A) of the Act and there is no illegality in the demand.

5. The learned Counsel for the petitioner submitted that the petitioner is in possession of 4584 sq.ft., out of which, 2000 sq.ft is used for residential purpose and the remaining vacant land measuring 2584 sq.ft is kept vacant, but rent was fixed for the vacant land also. It is further submitted that the 4th respondent has terminated the lease without giving any opportunity to the petitioner as per Section 34 (B) of the Act.

6. On perusal of the records, it is seen that no documents have been produced to establish that notice regarding the fixation of lease amount was communicated to the petitioner as per Section 34 (A) (2) of the Act and an opportunity was also not given to the petitioner before passing the termination of tenancy as per Section 34 (B) of the Act.

7. In the light of the above facts, the orders impugned in these writ petitions are set aside and matter is remanded back to the 4th respondent for fresh disposal. The 4th respondent shall issue fresh notice and after providing an opportunity of hearing to the petitioner pass orders in

accordance with law.

8. Accordingly, these writ petitions are allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

msrm / pvs
To

1. The Secretary to Government
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and Information department
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Thirukoil, Kancheepuram
Office at Kachabeswar Temple
Nellukara Street, Kancheepuram

+lcc to Mr.M.S.Subramanian, Advocate SR.NO.43286
+lcc to Government Pleader SR.NO.43553

PP(CO)
sm:21.8.2018

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