

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2018

CORAM:

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.29276 of 2015
and
M.P.No.1 of 2015
and
W.M.P.No.2944 of 2016

M/s.Jayabaratham Marketing,
Rep.by its Proprietor, J.P.Guna,
No.122, Gowdia Mutt Road,
Royapettah, Chennai - 600 014. ..Petitioner

vs

1.The Commissioner,
HR&CE Admn Dept,
No.119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai - 600 034.

2.The Joint Commissioner,
HR&CE Admn Dept,
No.119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai - 600 034.

3.The Assistant Commissioner,
HR&CE Admn Dept,
No.119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai - 600 034.

4.The Executive Officer,
A/m, Sithi Buthi Vinayagar & sunderaswarar Temple,
Royapettah,
Chennai - 600 014. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for entire records pertaining to the order 24.08.2015 of the 2nd respondent made in Na.Da.Na.Ka.No.2134/2015/A2 and quash the same.

For Petitioner : Mr.V.Srikanth

For Respondents : Mr.M.Maharaja, Spl GP(HR & CE)
for R1 to R3
Mr.S.D.Ramalingam for R4

O R D E R

The relief sought for in this writ petition is to call for the records in respect of the order passed by the Joint Commissioner of Hindu Religious and Charitable Endowments Department dated 24.08.2015, in relation to the eviction of the writ petitioner from the premises occupied by the petitioner.

2.The learned counsel appearing on behalf of the writ petitioner made a submission that he is in lawful occupation of the building belongs to the Temple measuring an extent of 3550 Sq.ft.bearing Door No.122, Gowdia Mutt Road, Royapettah, Chennai - 600 014. The writ petitioner is the leaseholder and paying the monthly rent punctually. The grievances of the writ petitioner is that the respondents enhanced the monthly rent without any valid reason and he raised a dispute in respect of the enhancement made by the competent authorities and that is the reason why, the impugned order of eviction has been issued.

3.However, the lease granted in favour of the writ petitioner had expired and the learned Special Government Pleader appearing on behalf of the respondents made a submission that the lease agreement has not been extended in favour of the writ petitioner and therefore, the petitioner is to be treated as an encroacher, who is in unlawful occupation. Thus, there is no infirmity in respect of actions initiated by the respondents for auction under Section 78 of the Hindu Religious and Charitable Endowments Act(hereinafter referred to as "the Act"). However, the fact remains that as of now, there is no valid lease agreement in favour of the writ petitioner and further, it is admitted by the parties to the present lis that the enhanced rent also has not been paid to the respondents. Without reference to the enhanced rent, now the writ petitioner filed an affidavit on 6th July 2018, stating that he will vacate the premises and hand over the key to the Temple authorities within a period of three months. All other disputes between the parties can be resolved in the manner known to law. Taking note of the affidavit now filed before this Court on 6th July 2018 that the writ petitioner will vacate the Temple premises within a period of three months.

4.This Court is of an opinion that rest of the disputes prevailing between the parties can be adjudicated in the manner known to law and before the appropriate authorities. However, the lease as of now is not in existence in favour of the writ petitioner. Thus, the affidavit filed is to be accepted and accordingly, the writ petitioner is liable to vacate the

premises within a period of three months as per the assurance provided in the affidavit dated 6th July 2018.

5. In this view of the matter, the writ petitioner is directed to vacate the premises, which is in his occupation on or before 30th September 2018 and hand over the vacant possession and key to the Temple authorities. Thereafter, the Temple authorities are at liberty to go for a fresh auction and in the event of any such Notification for open auction, the writ petitioner is also eligible to participate, if he is otherwise qualified in accordance with the terms and conditions of the Notifications to be issued by the competent authorities.

6. Accordingly, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Deputy Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner,
HR&CE Admn Dept,
No.119, Uthamar Gandhi Salai,
Nungambakkam, Chennai - 600 034.
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Nungambakkam, Chennai - 600 034.
4. The Executive Officer,
A/m, Sithi Buthi Vinayagar & sunderaswarar Temple,
Royapettah,
Chennai - 600 014.

+1cc to Mr.V.Srikanth, Advocate Sr.No.47642

+1cc to Mr.S.D.Ramalingam, Advocate SR.No.47837

sm:27.7.2018

W.P.No.29276 of 2015