

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2018
CORAM

THE HONOURABLE MR.JUSTICE K. RAVICHANDRABAABU

W.P.No.29174 of 2017
and
W.M.P.No.32445 of 2017

V.A.Veeramani

... Petitioner

vs.

1. The Secretary to Government,
Government of Tamil Nadu,
Tourism, Culture & Religious
Endowments Department,
Fort St.George,
Chennai - 600 009.
2. The Commissioner,
Hindu Religious & Charitable Endowments Department,
Nungambakkam High Road,
Chennai - 600 034.
3. The Joint Commissioner,
Hindu Religious & Charitable Endowments Department,
Nungambakkam High Road,
Chennai - 600 034.
4. The Assistant Commissioner,
Hindu Religious & Charitable Endowments Department,
Nungambakkam High Road,
Chennai - 600 034.
5. The Executive Officer,
Arulmighu Kapaleeswarar Temple,
Mylapore,
Chennai - 600 004.
6. P.Jeyalakshmi ... Respondents

PRAYER:

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus directing the respondents herein to reopen the lock and allow the petitioner to vacate the shop by removing the furnitures, materials, equipments and medicines from 'Shree Saravana Medicals' situated in the Ground

Floor building at Old No.41, New No.71, Ramakrishna Madam Salai, Mylapore, Chennai - 600 004.

For Petitioner : Mr.G.Arul Murugan

For Respondents : Mr.M.Maharaja,
Special Government Pleader for R1 to R5

No appearance for R6.

O R D E R

The petitioner seeks for a Mandamus directing the respondents to reopen the lock and allow the petitioner to vacate the shop by removing the furnitures, materials, equipments and medicines from 'Shree Saravana Medicals' situated in the Ground Floor building at Old No.41, New No.71, Ramakrishna Madam Salai, Mylapore, Chennai - 600 004.

2. Mr.M.Maharaja, learned Special Government Pleader appeared for the 1st to 5th respondents. Though notice was served on the 6th respondent, she has not chosen to appear either in person or through counsel. Her name is printed in the cause list today.

3. Learned counsel appearing for the petitioner submitted that the petitioner was inducted as a sub-tenant by the 6th respondent, who in turn, is a tenant under the HR & CE Department, in respect of the property belonging to the 5th respondent Temple. He further submitted that when the eviction proceedings was initiated against the 6th respondent by the HR & CE Department, she filed a writ petition before this Court in W.P.No.24754/2017 wherein an order was passed on 14.09.2017 directing the HR & CE Department to unlock the house portions alone which were in occupation of the 6th respondent and the other tenants subject to payment of Rs.3,00,000/- each. He further submitted that since an order was passed in that writ petition, not to unlock the commercial portions which were locked by the HR & CE Department, the petitioner who is in occupation of one such commercial portion by running a medical shop has filed the present writ petition seeking for a similar relief.

4. Mr.M.Maharaja, learned Special Government Pleader appearing for the HR&CE Department submitted that there is a huge arrears of rent payable by the 6th respondent as a tenant and hence, the petitioner cannot seek any indulgence before this Court, since his sub-tenancy was not approved by the HR & CE Department.

5. Learned counsel appearing for the petitioner submitted that the medicines which are having specific expiry dates are stored in the shop which is under lock and key and therefore, if the petitioner is not permitted to remove the stocks, those medicines will go waste after its expiry without use for anybody. He further submitted that when the 6th respondent herself has permitted to occupy the residential portion by paying a sum of Rs.3,00,000/-, the petitioner can also be shown some indulgence so that the petitioner will remove the stocks and also vacate the portion in which the shop is located.

6. Considering the above stated facts and circumstances and considering the fact that the medicines are stored in the subject matter premises, in the interest of both parties, this Court is of the view that the petitioner can be directed to remove the goods available inside the premises after paying a sum of Rs.1,50,000/- to the 5th respondent Temple.

7. Accordingly, this writ petition is disposed of as follows:

(a) The petitioner shall pay a sum of Rs.1,50,000/- (Rupees One Lakh Fifty Thousand only) to the 5th respondent Temple on or before 01.02.2018.

(b) On receipt of such payment, the 1st to 5th respondents shall remove the lock of the subject matter property and allow the petitioner to remove the goods available inside the said shop.

(c) After removing the goods, the petitioner shall vacate and hand over vacant possession to the 5th respondent Temple within two days from the date of unlocking of the premises.

(d) It is open to the petitioner to work out his remedy against the 6th respondent in a manner known to law before the appropriate forum for recovery of the sum paid by him as directed in this writ petition.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Secretary to Government,
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Tourism, Culture & Religious
Endowments Department,
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Chennai - 600 009.
2. The Commissioner,
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5. The Executive Officer,
Arulmighu Kapaleeswarar Temple,
Mylapore,
Chennai - 600 004.

+1cc to Mr.G.Arul Murugan, Advocate, S.R.No.6304

+1cc to Mr.Arul Murugan, Advocate, sr.no.6507 (04/06/18)

W.P.No.29174 of 2017

AA(CO)

RRK(31/01/2018)

सत्यमेव जयते

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