

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2018

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.14039 of 2018

M.Balaraman

.. Petitioner

-vs-

1. The Executive Officer
Gangadeeswarar Temple
Gangadeeswarar Koil Street
Purasaiwakkam
Chennai 600 084

2. The Joint Commissioner
Hindu Religious and Charitable
Endowments Department
Uthamar Gandhi Road
Nungambakkam
Chennai 600 034

3. The Commissioner
Hindu Religious and Charitable
Endowments Department
Uthamar Gandhi Road
Nungambakkam
Chennai 600 034

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the first respondent to consider the petitioner's representation dated 15.04.2017 to allow the petitioner to make payment of monthly rent of Rs.3,500/- (Rupees three thousand five hundred only) directly to the temple authority.

For Petitioner :: Mr.P.Ayyaswamy

For Respondents :: Mr.M.Maharaja
Special Government Pleader

ORDER

Mr.M.Balaraman, claiming to be a tenant under Mr.Sankaran by paying a monthly rent of Rs.3,500/-, has come to this Court seeking issuance of a writ of mandamus directing the Executive

Officer, Gangadeeswarar Temple, Purasaiwakkam, Chennai, the first respondent herein to consider his representation dated 15.4.2017 and allow him to pay the monthly rent of Rs.3,500/- directly to the temple authority.

2. Learned counsel for the petitioner submitted that since the petitioner became a tenant under Mr.Sankaran on a monthly rent of Rs.3,500/- with the payment of the advance amount of Rs.5,00,000/- in the year 1999, he has been continuing as a tenant till date. As the said Mr.Sankaran was a bachelor and had no issues or legal heirs, after his death, one Mr.Natarajan, claiming to be the brother of Mr.Sankaran, forcibly demanded the petitioner to pay the monthly rent to him and thereafter, he also demanded the payment of additional advance amount of Rs.1,50,000/-. In good faith, the petitioner also, agreeing to the said understanding, paid the additional advance amount of Rs.1,50,000/- along with the monthly rent in the year 2012. When the petitioner has been paying the monthly rent regularly for more than 18 years without any default till date in respect of the premises situate at New No.3, Old No.79, Gangadeeswarar Koil Street, Purasaiwakkam, Chennai, for the last two years, the said Mr.Natarajan has been threatening and forcing the petitioner to vacate from the premises without returning the advance amount of Rs.6,50,000/-. Therefore, the petitioner lodged a police complaint and also obtained a CSR copy and has also filed a civil suit. Now the petitioner has learnt that the said Mr.Natarajan has not paid the monthly rent collected from the petitioner to the temple. In view of that, he has been facing the eviction order. Hence, a direction be issued to the temple authority to accept the rent payable by the petitioner directly, instead of receiving the same through Mr.Natarajan who claims to be the legal heir of Mr.Sankaran, he pleaded.

3. The learned Special Government Pleader for the respondents, opposing the above prayer, urging this Court to dismiss the writ petition on the ground that the petitioner has no locus standi whatsoever, further submitted that the original tenant Mr.Sankaran, in whose favour 5500 sq.ft., of land came to be allotted in the heart of the city on lease, failed to pay the monthly rent and the arrears accumulating to Rs.41,85,912/- from the year 2000. In view of the chronic default committed by the said Mr.Sankaran under whom the petitioner claims to have taken sub tenancy, without the permission of the temple authority, has suffered an order passed under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Department by the Joint Commissioner on 8.5.2015 treating the said Mr.Sankaran as a trespasser. Aggrieved by the said order, the said Mr.Sankaran also filed an appeal before the Commissioner and after considering the contentions, the Commissioner also dismissed the appeal on 24.11.2015. As against that, a further revision has

been preferred before the Government, but the said revision has not been till date numbered. It is at this stage the said Mr.Sankaran has set up the present petitioner to come to this Court. In any event, when Mr.M.Balaraman has not obtained any permission whatsoever from the temple authorities and when the original tenant Mr.Sankaran himself has been considered as a rank trespasser vide the order dated 8.5.2015 passed by the Joint Commissioner, which has been affirmed by the Commissioner in his order dated 24.11.2015, the prayer in the writ petition is wholly misconceived.

4. I also fully agree with the said submissions. The reason being that the said Mr.Sankaran, in whose favour 5500 sq.ft., of land situate at Purasaiwakkam in the heart of the city, was given possession on a monthly rent of Rs.3,500/-, did not even bother to pay the rent from the year 2000, which has piled upto Rs.41,85,912/-. Finally, the Executive Officer has filed a petition before the Joint Commissioner under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act. After considering the case of the Executive Officer and the said Mr.Sankaran, the Joint Commissioner passed a final order on 8.5.2015 treating the said Mr.Sankaran as a rank trespasser and the said order also has been affirmed by the Commissioner in his order dated 24.11.2015. Therefore, the prayer of the petitioner is refused and the writ petition stands dismissed. No costs.

Sd/-
Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

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To

1. The Executive Officer
Gangadeeswarar Temple
Gangadeeswarar Koil Street
Purasaiwakkam
Chennai 600 084
2. The Joint Commissioner
Hindu Religious and Charitable
Endowments Department
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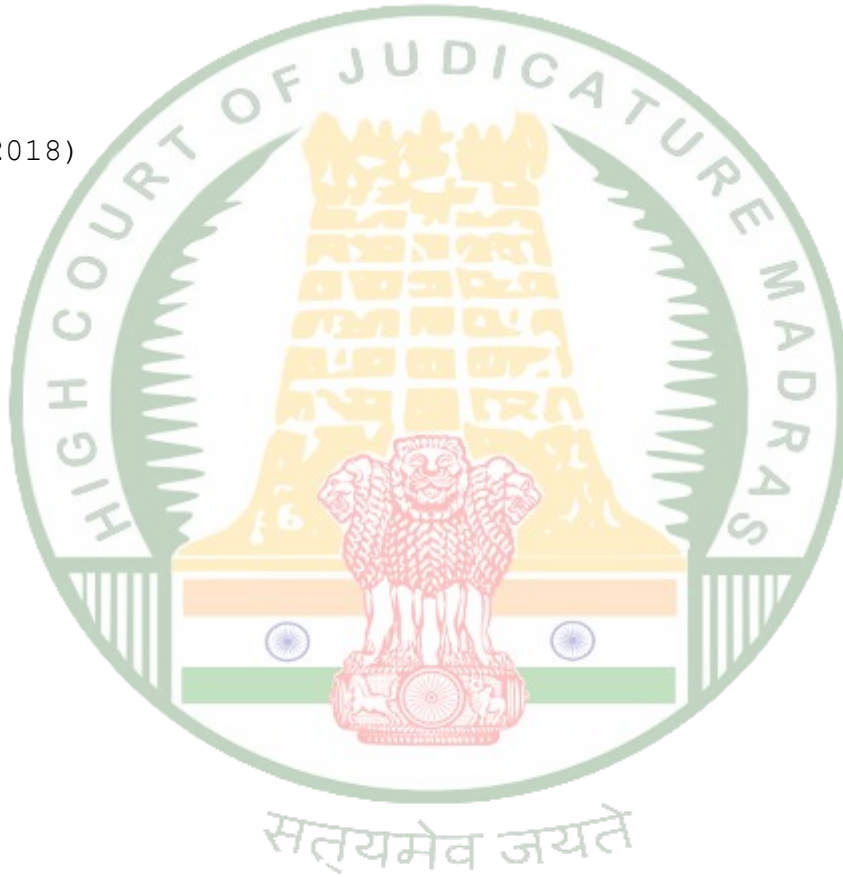
3. The Commissioner
Hindu Religious and Charitable
Endowments Department
Uthamar Gandhi Road
Nungambakkam
Chennai 600 034.

+ 2 ccs to P. Ayyaswamy, Advocate Sr.37086

+ 1 cc to Mr.Special Government Pleader Sr.37389

W.P.No.14039 of 2018

CS-DR(CO)
EU(25/06/2018)



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