

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:19.03.2018

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THE HON'BLE MR.JUSTICE M.SUNDAR

W.M.P.No.1442 of 2018

in

Rev.Aplw.SR.No.4419 of 2018

in

W.P.No.18325 of 2004

M.V.Ramu (deceased) Petitioner in WP

1. Mrs.Bharathi
- 2.Mr.R.Baskar
- 3.Mrs.Mohana Lakshmi
- 4.Mr.Jijendran

.. Petitioners/Proposed party 1 to 4 in
Rev.SR

Vs.

- 1.The Commissioner
Hindu Religious and Charitable Endowments Board
Chennai-34
- 2.The Executive Officer
Arulmigu Nantheeswar Temple
Natheevaram, Guduvanchery Village
Kanchipuram District
- 3.The District Collector
Kanchipuram District

.. Respondents/Respondent in WP

Petition filed under Article 226 of the Constitution of India to permit the petitioners 1 to 4 file the Review Petition SR.No. 4419/18 sought to be presented under section 114 CPC to review the order of this Court dated 20.07.2017 in WP.No. 18325 of 2004 presented under Article 226 of India to issue a Writ of Mandamus directing the 1st respondent to renew and extend the lease period of the land situate in S.F.No. 366, 338 to an extent of 2 acres which belongs to Arulmigu Nandeeswarar Temple, Nandeevaram, Kuduvancherry in which the petitioner's theatre is situated, in terms of G.O.Ms.No.55, dated 3.2.99 and G.O.Ms.No.56, Tamil Development Culture and Religion Charitable Endowment Department dated 2.2.98, considering the application

of the petitioner for renewal of lease dated 23.1.2004, 5.5.2004 and 17.06.2004 so as to enable the petitioner to renew the 'C' Form licence and run the Cinema Theatre of the petitioner continuously without any break under the provisions of Tamilnadu Cinema Regulations Acts and Rules.

For Applicant : Mr.Suresh Kumar
of M/s.K.M.Vijayan Associates

For Respondent : Mr.M.Maharaja
Spl.Govt. Pleader (HR & CE) for R1

JUDGMENT

I heard Mr.Suresh Kumar of M/s.K.M.Vijayan Associates, Law Firm, on record for the petitioner and Mr.M.Maharaja, learned Special Government Pleader for Hindu Religious and Charitable Endowments Department, assisted by Ms.H.Lucia Priyadarshini, learned counsel, who was present in Court. Though I have not ordered notice in this petition, as Special Government Pleader for HR & CE was present in Court, on behalf of the respondents 1 and 2, I heard both sides.

2. Subject matter of the writ petition is 2 acres of land belonging to a temple, which goes by the name 'Arulmigu Nandeeswarar Temple, Nandeevaram, Guduvancherry, Kancheepuram District'. Nandeeswarar Temple, Nandeevaram, Guduvancherry, Kancheepuram District is hereinafter referred to as 'said temple', for the sake of brevity, convenience and clarity. Land, which is subject matter of this writ petition, belongs to the said temple, ad-measures 2 acres (1 acre out of a total extent of 2.52 acres in S.No.336 and another 1 acre out of a total extent of 2.45 acres in S.No.338, both in Nandeevaram Village). This 2 acres of land belonging to the said temple, is hereinafter referred to as 'demised land' for the sake of convenience and clarity.

3. It is the admitted case of the writ petitioner (as is evident from the writ affidavit) that the demised land belongs to the said temple. It is also the further admitted case of the writ petitioner that the said temple is under the control, management and administration of the Tamil Nadu Hindu Religious and Charitable Endowments Department, Government of Tamil Nadu, which is hereinafter referred to as 'TNHR&CE Dept.' for brevity.

4. Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Act 22 of 1959) is hereinafter referred as 'TNHR & CE Act' for the sake of brevity and clarity.

5. Considering that the lease of the demised land is for a

period exceeding 5 years, Section 34 of TNHR & CE Act applies and operates.

6. The writ petition was filed with a prayer to direct the first respondent Commissioner TNHR & CE Dept. inter alia to grant renewal of lease of demised land in which admittedly a Cinema theatre is being run. On 20.07.2017 when the writ petition was listed for final disposal, as there was no representation on behalf of the petitioner, in both calls, I disposed of the matter on merits after hearing Mr. Maharaja, learned Special Government Pleader for TNHR & CE Dept. Spouse, two sons and one daughter of M.V. Ramu, who had filed the aforesaid writ petition being W.P.18325 of 2004, has come up with the instant petition with a prayer seeking leave to file a review application.

7. It is pointed out by Mr. Suresh Kumar, learned counsel that writ petitioner M.V. Ramu died on 22.03.2017. However, learned counsel very fairly submits that as the above proceedings is a writ petition, it is not governed by Code of Civil Procedure, 1908 ('CPC' for brevity) and therefore, question of abatement will not arise. It is his further submission that what needs to be looked into is, as to whether the prayer survives and as to whether legal heirs can pursue the prayer.

8. Therefore, this puts a quietus to one aspect of the matter.

9. The other aspect of the matter is, the first respondent Commissioner TNHR & CE Dept., disposed of the lease renewal application in and by an order dated 28.01.2013 bearing reference Na.Ka.No.36620/2013 V2 and the said order dated 28.11.2013 has also been challenged by aforesaid Mr. Ramu by way of a writ petition being W.P.No.389 of 2014 in this Court. I am informed that notice has been issued in the said writ petition, interim order has been granted the writ petition is pending and the interim order is operating.

10. I am also informed that W.P.No.16525 of 2001 about which I have made a reference in Paragraph 11 of my order dated 20.07.2017 has also been withdrawn on 06.08.2009.

11. This leave to file review has been filed on the basis that the aforesaid facts and developments, which happened pending aforesaid writ petition W.P.No.18325 of 2004 could not be brought to the notice of this Court when the writ petition came to be disposed of on 20.07.2017.

12. After hearing learned counsel for petitioner Mr. Suresh Kumar and Mr. Maharaja, learned Special Government Pleader, I

have applied my mind to the papers placed before me and it is my considered view that aforesaid facts do not make any difference to my order dated 20.07.2017, much less are they grounds for review. This is owing to the observation made by me in Paragraph 26 of the aforesaid order, which reads as follows:

"26. Before parting with the case, it is made clear that in the interregnum, if the request of the writ petitioner vide representations dated 23.01.2004, 05.05.2004 and 17.06.2004, has already been acceded to by the Commissioner, by exercise of his powers under Section 34 of the TNHR & CE Act, this order will not preclude the writ petitioner from getting the benefit of the same."

13. In the light of aforesaid paragraph 26 of my order, if the petitioners before me who are legal heirs of Late M.V.Ramu, decide to pursue the writ petition W.P.No.389 of 2014 (assailing the order of the Commissioner, TN HR & CE Dept. dated 28.11.2013), it will be open to them to do so and my order dated 20.07.2017 will not be an impediment for such a course.

14. In the light of the narrative supra, I am of the view that this is not a fit case for granting leave to file review and the aforesaid clarification balances the rights and interest of all concerned.

This W.M.P.No.1442 of 2018 is disposed of and Rev.Aplw.SR.No.4419 of 2018 is rejected.

Sd/-
Assistant Registrar(CS VI)

//True copy//

Sub Assistant Registrar

gpa

TO

1.The Commissioner
Hindu Religious and Charitable Endowments Board
Chennai-34

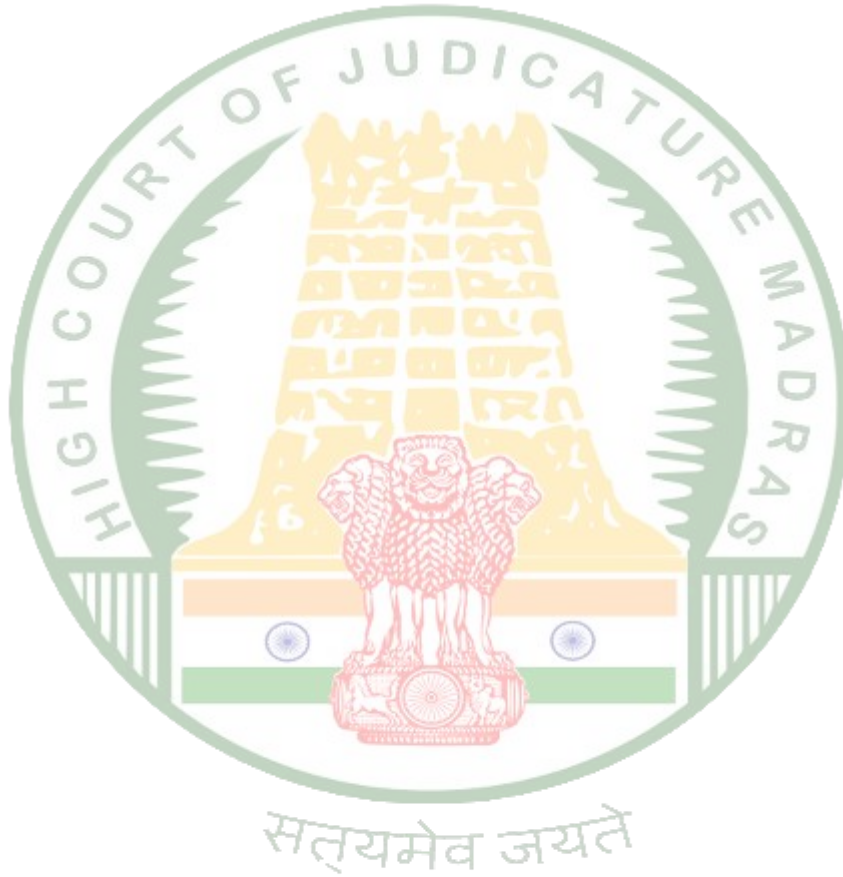
2.The Executive Officer
Arulmigu Nantheeswar Temple
Natheevaram, Guduvanchery Village
Kanchipuram District

3.The District Collector
Kanchipuram District

+1cc to Mr.K.M.vijayan Associates, Advocate SR.No.20365
+1cc to Government Pleader SR.No.21042

W.M.P.No.1442 of 2018 in
Rev.Aplw.SR.No.4419 of 2018 in
W.P.No.18325 of 2004

SKV (CO)
GN (04/04/2018)



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