

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2018

CORAM:

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN

W.P.No.8262 of 2015

K.N.Zenith Natarajan

... Petitioner

vs.

1. The Secretary to Government,
Hindu Religious & Charitable Endowments
Department, Secretariat,
Chennai 600 009.
2. The Commissioner,
Hindu Religious & Charitable Endowments
Department,
Nungambakkam High Road,
Chennai 600 034.
3. The Additional Commissioner (Enquiry),
O/o. The Commissioner,
Hindu Religious & Charitable Endowments
Department,
Nungambakkam High Road,
Chennai 600 034.
4. The Deputy Commissioner,
Hindu Religious & Charitable Endowments
Department, Dharmapuri.
5. Radhamani
6. Shivakumar

... Respondents

(R6 impleaded vide order of this Court dated 17.08.2017 in W.M.P.No.11620 of 2016 in W.P.No.8262 of 2015)

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records of the 2nd Respondent/Commissioner, H.R. & C.E. in respect of the impugned order O.Mu.No.4123/2015/V1, dated 26.02.2015 passed by the Commissioner, H.R. & C.E. and quash the same with a consequential direction to the Respondents herein to extend the lease granted to the Petitioner pursuant to the Proceedings O.Mu.No.60217/2011 V1, dated 02.01.2012 issued by the Additional Commissioner, H.R. & C.E. for a further period of 3 years from 01.02.2015 by following the rules and regulations for the extension of similar lease granted by the Department to similar

lessees by taking into consideration the ground realities as well as rent charged in respect of similar leases in and around the area.

For Petitioner : Mr.Bharath Goutham
for Mr.C.V.Vijayakumar

For Respondents 1 to 4: Mr.M.Maharaja,
Special Government Pleader

For 5th Respondent : Mr.V.R.Anna Gandhi

For 6th Respondent : Ms.K.Vasuki

O R D E R

Challenging the impugned order dated 26.02.2015 passed by the 2nd Respondent/Commissioner, H.R. & C.E. Department and for a consequential direction to the Respondents herein to extend the lease granted to him for a further period of three years, the Petitioner is before this Court by way of the present Writ Petition.

2. According to the Petitioner, by way of a letter dated 12.09.2011 to the Deputy Commissioner, Hindu Religious & Charitable Endowments Department (in short 'H.R. & C.E.'), Dharmapuri, he requested to lease the shed constructed in Survey Nos.693A and 694B to the extent of 0.35 cents of land belonging to Arulmigu Karagachamundi Amman Vagaira Thirukoilgal, Krishnagiri Taluk and District and further sought permission to put up pucca construction for the purpose of running an Auto-Two Wheeler workshop subject to any rent fixed by the Government. By way of the said communication, he also expressed his willingness to pay donation for renovation of the Temple.

3. It is further stated by the Petitioner that his request was considered by the H.R. & C.E. Department and the 3rd Respondent herein issued proceedings dated 02.01.2012, granting lease of the said land to the Petitioner to an extent of 0.35 cents belonging to the Temple in question, for a period of three years, by fixing Rs.50,000/- as donation to be paid by the Petitioner, along with the monthly rent of Rs.8,580/- for the 1st year, Rs.9,870/- for the 2nd year and Rs.11,350/- for the 3rd year. Pursuant to the above proceedings, the 5th Respondent, Fit Person/Executive Officer of the Temple in question entered into a Rental Agreement, dated 16.04.2012 with the Petitioner for a period of three years, from 01.02.2012 to 31.01.2015.

4. The Petitioner goes on to state that he had scrupulously followed the terms and conditions imposed by the Additional Commissioner (Enquiry) and that are no arrears of rent due to the 5th Respondent herein. He sent a communication on 06.12.2014 to the Fit Person/Executive Officer, the 5th Respondent herein, requesting him to extend the lease for a further period of three

years from 01.02.2015. However, the 5th Respondent sent a reply dated 24.12.2014, stating that the extension of lease for a period of 2 years will be recommended only subject to the condition that the Petitioner agrees for a monthly rent of Rs.26,400/- along with payment of Rs.2,64,000/- as donation to the Temple and 12 months rent, of which Rs.3,16,800/- is deposited to the Temple.

5. It is the case of the Petitioner that the original lease of land was granted to him under Rule 11 of the Religious Institutions (Lease of Immovable Property) Rules, 1963 framed under the Tamil Nadu Hindu Religious & Charitable Endowments Act, 1959, and therefore, the extension of lease is governed by Rule 12(1) of the above said Rules read with Rule 17 of the Rules. The Petitioner contended that he is entitled to get extension of lease as a matter of right and it cannot be curtailed by anyone, as there is no prohibition under the Statute. According to the Petitioner, he had approached this Court earlier in W.P.No.678 of 2015, questioning the communication dated 24.12.2014 issued by the 5th Respondent herein and this Court disposed of the said Writ Petition on the following terms:

"6. This Writ Petition is disposed of, directing the petitioner to submit his objections to the impugned proceedings, dated 24.12.2014, before the fifth respondent within a period of two weeks from the date of receipt of a copy of this order. On such objections being filed, the 5th Respondent shall place the entire file for consideration before the Commissioner, H.R. & C.E. Department, who shall take a decision in the matter in accordance with law within a period of four weeks from the date on which the fifth Respondent places the file for his perusal, without prejudice to the rights of the Petitioner and the Petitioner shall deposit a sum of Rs.1,00,000/- (Rupees One Lakh only) before the fifth Respondent within a period of two weeks from today. If the petitioner complies with the said conditional order passed by this Court, his possession shall not be disturbed and shall abide by the order to be passed by the Commissioner, H.R. & C.E. Department, in terms of the above order."

6. Even though no counter is filed by the Respondents, learned Special Government Pleader appearing for Respondents 1 to 4 submitted that the relief sought by the Petitioner no longer exists, as the Petitioner, apart from challenging the earlier order, has sought extension of lease for another period of three years, from 01.02.2015.

7. A reading of Rule 11 of the Religious Institutions (Lease of Immovable Property) Rules, 1963 makes it very clear that the

entire discretion as regards grant of lease vests with the authorities. Even though Rule 12(1) clearly states that there can be extension, it specifically states that any further extension of lease upto a period of five years from the date it was originally granted shall be made only with the previous sanction of the Commissioner.

8. In the case on hand, the Petitioner has originally been granted lease for a period of three years from 01.02.2012 to 31.01.2015 and now, he seeks extension of lease for a further period of three years, from 01.02.2015. The relief sought by the Petitioner no longer exists, as the lease period had already expired. However, it is open to the authorities to extend the period of lease to the Petitioner or go ahead with the public auction and allot the land in accordance with law. It is made clear that the Petitioner, as a matter of right, cannot demand extension of lease and he cannot stall the auction proceedings.

In view of the above, the Writ Petition is dismissed as devoid of merits. No costs. Consequently, connected M.P.Nos.1 and 2 of 2015 are closed.

Sd/-
ASST. REGISTRAR

/TRUE COPY/

SUB ASST. REGISTRAR

(aeb)

To:

1. The Secretary to Government,
Hindu Religious & Charitable Endowments
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2. The Commissioner,
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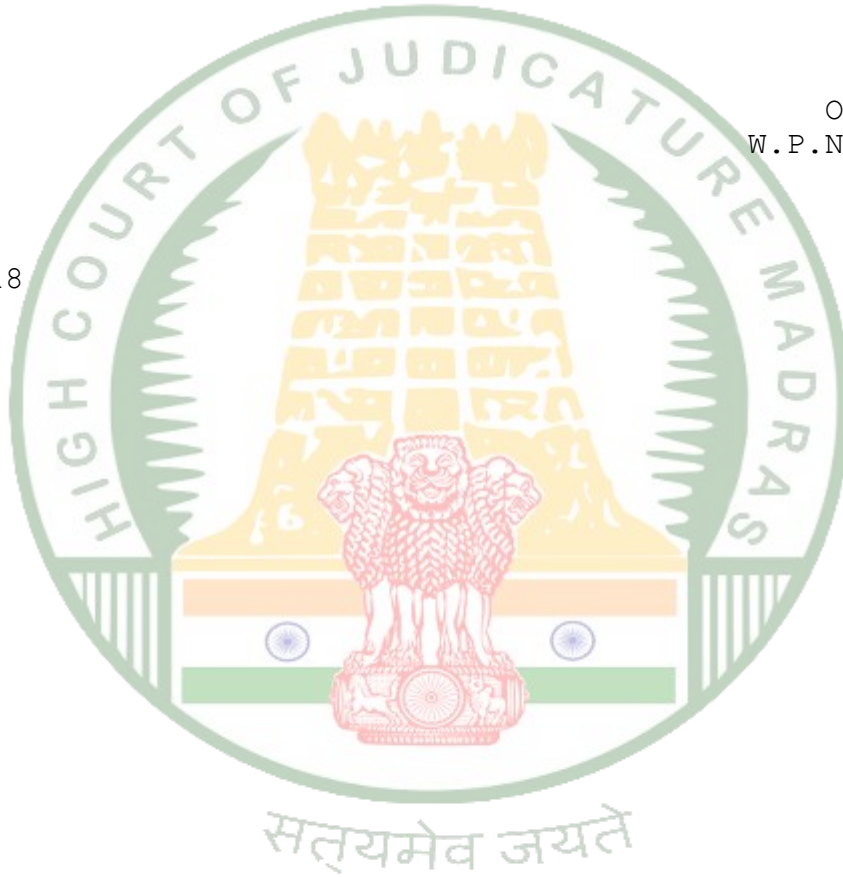
+1 cc to the Government Pleader, High Court, Chennai SR.NO. 14602

+1 cc to Mr.V.R.Anna Gandhi, Advocate SR.NO. 14585

+1 cc to Mr.C.V.Vijayakumar, Advocate SR.NO. 14736

KAN(CO)
JK 16/04/18

Order in
W.P.No.8262 of 2015



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