

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2018

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.19780 of 2018 and
W.M.P.No.23217 of 2018

L.Jagdish Kumar .. Petitioner

Vs.

1.The State of Tamil Nadu
rep by its Secretary to Government,
Hindu Religious and Charitable Endowments Department,
Fort St.George, Chennai - 600 009.

2.The Commissioner,
Hindu Religious and Charitable Endowments Board,
Nungambakkam High Road, Chennai - 34.

3.The Joint Commissioner,
Hindu Religious and Charitable Endowments Board,
Nungambakkam High Road, Chennai - 34.

4.The Executive Officer,
Arulmigu Sriramulu Chettiar Specific Endowments
attached to Madhavaperumal Temple,
Chennai - 4.

... Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondents to regularize the tenancy in favour of the petitioner with respect to the shop measuring 230 sq.ft., situate at Old No.34, New No.17, Kutchery Road, Mylapore, Chennai - 4 belonging to Arulmigu Sriramulu Chettiar Specific Endowments attached to Madhavaperumal Temple, Chennai and administered by the 2nd respondent, applying the benefits of G.O.Ms.No.353 (Tamil Development - Cultural and Religious Endowment Department) dated 04.06.1999.

For Petitioner : Mr.S.F.Mohamed Yousuf

For Respondents : Mr.M.Maharaja,
Special Government Pleader (R1 to R4)

O R D E R

This Writ Petition has been filed seeking a direction to the respondents to regularize the tenancy in favour of the petitioner with respect to the shop measuring 230 sq.ft., situate at Old No.34, New No.17, Kutchery Road, Mylapore, Chennai - 4 belonging to Arulmigu Sriramulu Chettiar Specific Endowments attached to Madhavaperumal Temple, Chennai and administered by the 2nd respondent, applying the benefits of G.O.Ms.No.353 (Tamil Development - Cultural and Religious Endowment Department) dated 04.06.1999.

2.The learned counsel appearing for the petitioner submitted that the shop in question situated at Old No.34, New No.17, Kutchery Road, Mylapore, Chennai, belongs to Arulmigu Sriramulu Chettiar Specific Endowments attached to Madhavaperumal Temple, Chennai and administered by the 2nd respondent viz., the Commissioner, HR & CE Board. The petitioner is in possession of the said shop measuring 230 sq.ft. as a sub-tenant for the past 53 years. In the year 1965, the original lessee of the shop one deceased Nagalakshmiammal had sub-let the said shop to the petitioner's uncle late A.Jethanand. In the year 1970, the said A.Jethanand inducted his brother, who is the petitioner's father Late Lalchand as the Proprietor of M/s.Colombo Silk Stores. The monthly rents have been paid to the said Late Nagalakshmiammal and thereafter to her legal heirs.

3.The learned counsel for the petitioner submitted that a Civil Suit in O.S.No.9094 of 1977 was filed for delivery of possession of the shop from the petitioner's occupation and a decree was also obtained from the IX Assistant City Civil Court, Chennai. Based on the decree, an Execution Petition in E.P.No.787 of 1992 was filed for delivery of possession. In the meanwhile, the petitioner came to know of the G.O.Ms.No.353 (Tamil Development - Cultural and Religious Endowment Department) dated 04.06.1999, which provides for fixation of rent towards regularization of the occupants of the temple properties. Therefore, representations dated 20.12.2002 and 29.01.2003, 22.08.2012, 10.09.2013 and 12.04.2018 have been given. But the said representations have not been considered till date. Hence, a direction may be given to the respondents.

4.The learned Special Government Pleader appearing for the respondents submitted that the request of the petitioner cannot be considered. If the petitioner's request/claim is considered, then the judgment and decree passed in O.S.No.9094 of 1977 for delivery of possession by the IX Assistant City Civil Court, Chennai would become meaningless. Moreover, the Executive Officer, after obtaining the decree, has filed E.P.No.787 of 1992 for executing the decree. Instead of co-

operating in the proceedings, the petitioner has come to this Court with unclean hands.

5.This Court agrees with the submission made by the learned Special Government Pleader that when the petitioner is a judgment debtor in O.S.No.9094 of 1977 and is facing execution proceedings in E.P.No.787 of 1992, his claim for regularization of tenancy is wholly meaningless. Therefore, this Court finds no merit in the Writ Petition and the Writ Petition fails.

6.In the result, the Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government,
State of Tamil Nadu,
Hindu Religious and Charitable Endowments Department,
Fort St.George, Chennai - 600 009.
- 2.The Commissioner,
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attached to Madhavaperumal Temple,
Chennai - 4.

+2cc to Mr.S.F.MOHAMED YOUSUF, Advocate, S.R.No. 53296 &
53350
+1cc to the Government Pleader, S.R.No. 53720

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SVN(CO)
TR(24/08/2018)