

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.12.2018

CORAM

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.25833 of 2018
and WMP Nos.30038 & 30040 of 2018

1. M.H.Shaik Ali

2.Enayathulla

.. Petitioners

Vs.

1. The Assistant Commissioner,
HR & CE Department,
Cuddalore.

2. The Joint Commissioner,
HR & CE Department,
Villupuram.

3. The Executive Officer,
Arulmighu Viruthagiriswarar Thirukovil,
Vriddhachalam & P.O,
Cuddalore District.

.. Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the impugned notice dated 08.06.2018 in Na.Ka.No.5054/2014/C2 by the 2nd respondent and quash the same.

For Petitioners

: Mr.A.R.L.Sundaresan, SC
for M/s. AL.Ganthimathi

For Respondents

: Mr.M.Maharaja
Special Govt. Pleader (HR & CE)

O R D E R

This Writ Petition is filed seeking to quash the proceedings of the second respondent in Na.Ka.No. 5054/2014/C2, dated 08.06.2018.

2. Heard Mr.AL.Ganthimathi, learned counsel appearing for the petitioners and Mr.M.Maharaja, learned Special Government Pleader (HR & CE) appearing for the respondents.

3. The contention of the petitioners is that admittedly, they are lessees in respect of the lands belonging to the third respondent temple. The petitioners claimed that they have put up construction on the said land after getting valid No Objection certificate from the third respondent temple. According to the petitioners, they are also paying rent for the lands, without any default. In the year 2014, eviction proceedings were initiated by the second respondent under the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, on the ground that the petitioners have put up unauthorised construction in the said land and the said unauthorised construction was treated as encroachment. The respondent also claimed Rs.22,100/- per month towards damages for use and occupation from 01.07.2016. In the said proceedings, the petitioners have also filed their counter as early as on 17.12.2014. However, there is no progress in the proceedings. In the meanwhile, the impugned notice has been served which is under challenge now.

4. Despite the fact that there is no stay or any impediment for the proceedings of the enquiry, the third respondent has unnecessarily waited for this long period without taking any further action. The learned counsel appearing for the petitioners would state that the respondents have no authority to collect the revised rent which is fixed without notice to the petitioners.

5. In such circumstances, this court is of the view that the petitioners shall be directed to appear before the second respondent for continuation of the enquiry. The second respondent is also directed to consider the objections raised by the petitioners and pass appropriate orders on the same. Till such time, the revised demand made by the third respondent shall be kept in abeyance. The respondents are directed to complete the enquiry on or before 11.01.2019.

6. With the above observations, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

jv

To

1. The Assistant Commissioner,
HR & CE Department,
Cuddalore.
2. The Joint Commissioner,
HR & CE Department,
Villupuram.
3. The Executive Officer,
Arulmighu Viruthagiriswarar Thirukovil,
Vriddhachalam & P.O,
Cuddalore District.

+1cc to Mr.C.T.Murugappan, Advocate, S.R.No.87193

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NMI (CO)
GSP(19/012/2018)

सत्यमेव जयते

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