

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.06.2019

CORAM

THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.27508 of 2009
and MP.No.1 of 2009

R.Sathyamoorthy

..Petitioner

vs

1. Special Commissioner & Commissioner,
Hindu Religious & Endowment Department,
Govt. of Tamil Nadu, Chennai 34.

2. The Joint Commissioner,
Hindu Religious & Endowment Department,
Govt. of Tamil Nadu, Chennai 34.

3. A/m. Srinivasa Perumal Temple,
Rep. by its Executive Officer,
Egmore, Chennai 8.

4. V.Murali

..Respondents

[R4, impleaded as per the order of this Court
dated 15.04.2010 in MP.No.1 of 2010
in WP.No.27508 of 2009]

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India seeking for a Writ of Mandamus, directing the respondents to consider the petitioner's representation dated 30.10.2009 for his tenancy in respect of a portion of about 441 sq.ft. in premises at Door No.15/28, Chinna Reddy Street, Egmore, Chennai 8.

For Petitioner : Mr.Subramani
for M/s/.T.K.S.Gandhi

For Respondents : Mr.M.Maharajan, Spl.G.P.
for RR1 & 2
Mr.T.Chandrasekaran, for R3
Mrs.Hema Sampath
for M/s.R.Meenal, for R4

ORDER

The petitioner has come forward with this Writ Petition for issuance of a Writ of Mandamus directing the respondents to consider his representation dated 30.10.2009.

2. The case of the petitioner is that he is a tenant of a portion of about 411 sq.ft. in the premises at Door No.15/28, Chinna Reddy Street, Egmore, Chennai - 8, which belongs to the third respondent Temple. The petitioner's father late P.Ramasamy was the original tenant of the said premises for more than 60 years. The third respondent-Temple filed a suit in O.S.No.7572 of 1981, before the City Civil Court, Chennai for recovery of possession and it reached finality in favour of the Temple. However, during the Execution Proceedings, the first respondent agreed to renew the tenancy in favour of the petitioner.

3. The petitioner would claim that based on a compromise, he paid the entire rental arrears and other incidental expenses. Thereafter, the petitioner approached the respondents and also sent representations to renew the lease. Since there was no response, the present Writ Petition.

4. In the counter affidavit filed by the third respondent, it is stated that the recovery proceedings initiated against the original tenant, viz., P.Ramasamy the father of the petitioner, ended in favour of the third respondent. The Writ Petitioner, who is one of the respondent in the Execution Petition in E.P.No.790 of 2002 came forward with a proposal to pay the fair rent along with arrears and applied to the respondent Department for compromise in the case against him. Considering the delay and other aspects, the Commissioner permitted the authorities to compromise the case and transfer the tenancy in favour of the petitioner, vide letter dated 21.12.2007. Accordingly, the entire arrears were collected on 11.02.2008.

5. It is further stated that subsequently a Writ Petition in W.P.No.17135 of 2008 was filed by the Egmore Philanthropic Trust, for issuance of Mandamus praying that the tenancy in respect of the property should not be regularised in favour of the petitioner herein and the Execution petition pending against him should be proceeded further without any compromise. In the meanwhile, after having reviewed the situations and reports submitted by the Joint Commissioner, Chennai, the Commissioner had passed the order dated 02.05.2008, instructing to stop further proceedings with regard to his earlier order dated 21.12.2007 and also instructed to vacate all the tenants in the building so as to proceed with the plan of constructing a new building. Based on the order of the Commissioner, dated

02.05.2008, the Writ Petition in W.P.No.17135 of 2008 was disposed of on 08.08.2008. The petitioner, who was arrayed as fifth respondent in the said Writ Petition, knowing fully well of the order of the first respondent and the orders of this Court, filed another Writ Petition in W.P.No.21168 of 2008, but it was dismissed at the admission stage itself on 02.05.2008.

6. It is further stated that the letters dated 30.07.2008 and 30.10.2009, on which, the petitioner seeks mandamus through this Writ Petition were not received by the third respondent.

7. Heard the learned counsels appearing on either side and perused the materials available on record.

8. It is not in dispute that the property bearing Door No.15/28 at Chinna Reddy Street, Egmore, Chennai, belongs to the third respondent Temple. It is also not in dispute that the third respondent filed a suit against the father of the petitioner in O.S.No.7572 of 1981 for recovery of possession and the same was decreed. The judgment of the Trial Court was confirmed by the High Court in S.A.No.1237 of 1988. It is represented that during the pendency of the Second Appeal, the original tenant P.Ramasamy passed away and the petitioner, who is one of the legal heirs was brought on record. This Writ Petition has been filed to consider the representation dated 30.10.2009.

9. It is to be noted that this Court appointed an Advocate Commissioner to note down the physical features of the property in dispute. The report of the Advocate Commissioner would reveal that the building in dispute is a very old building and its age is more than 65 years and major portion of the roof of the said building is made of country tiled roof with wooden rafter with lime mortar.

10. It is the case of the third respondent that the building is in a dilapidated condition and the respondents 1 to 3 have already decided to demolish the building and put up a new construction.

11. It is the submission of the learned counsel for the third respondent that the petitioner is not a registered tenant and he has no legal right to seek for the renewal of lease. It is not in dispute that no lease agreement has been entered in favour of the petitioner and the suit filed for recovery of possession has attained finality and the respondents have decided to execute the decree. So, in my considered opinion, the petitioner has no legal right to seek for Writ of Mandamus to renew the lease in his favour.

12. For the foregoing reasons, I find no merit in this Writ Petition. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

13. At this juncture, it is represented that the Execution Petition has been pending since 2002 and recovery proceedings were initiated in the year 1981. Hence, the Execution Court is directed to dispose of the Execution Petition as expeditiously as possible preferably within a period of three months from the date of receipt of a copy of this order.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

pvs

To

- 1.Special Commissioner & Commissioner,
Hindu Religious & Endowment Department,
Govt. of Tamil Nadu, Chennai 34.
- 2.The Joint Commissioner,
Hindu Religious & Endowment Department,
Govt. of Tamil Nadu, Chennai 34.
- 3.The Registrar
City Civil Court, Madras 104.

- +1 CC to Mr.T.K.S. Gandgi, Advocate sr 44869.
- +1 CC to Mr.T.Chandrasekaran, Advocate sr 44960.
- +1 CC to Mrs.R. Meenal, Advocate sr 45102.
- +1 CC to The Govt.Pleader sr 45470.

WEB COPY

W.P.No.27508 of 2009
and MP.No.1 of 2009

GJ(CO)
SP(22/07/2019)