

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.08.2019

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P.No.4044 of 2010
and
M.P.Nos.1 and 2 of 2010

1.K.Ramchand
2.K.Tahelram
3.K.Radhakrishnan
4.K.Doulattram
5.K.Naraindas
6.L.Tulsidas
7.L.Suresh
8.L.Ramesh
9.L.Deena

...Petitioners

Vs

1.The Commissioner,
H.R & C.E. Department,
Government of Tamil Nadu,
Nungambakkam High Road,
Chennai - 600 034.

2.The Joint Commissioner,
H.R & C.E. Department,
Government of Tamil Nadu,
Nungambakkam High Road,
Chennai - 600 034.

3.A/m.Parthasarathy Swami Thirukoil,
Rep.by its Executive Officer,
Triplicane, Chennai - 600 005.

4.T.Mangayarkarasi

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking issuance of a Writ of Certiorari, calling for the proceedings which culminated in the order Na.Ka.No.1496/2009 A3, dated 09.02.2009 on the file of the 2nd respondent and quash the same.

For Petitioners : Mr.M.Arumugam

For Respondents : Mr.M.Maharaja
Special Government Pleader (HR & CE)
for R1 & R2
No appearance for R3
Mr.S.Suriya Prakash for R4

O R D E R

This writ petition has been filed for issuance of a writ of certiorari to call for the records of the second respondent vide proceedings in Na.Ka.No.1496/2009 A3, dated 09.03.2009 and quash the same.

2. The petitioners are the legal heirs of late Parvathi Bai. The said Parvathi Bai was a tenant under the third respondent-temple. It seems that the original tenant Parvathi Bai had sub let the premises to the fourth respondent and in respect of the dispute over the same the petitioners filed an eviction petition in R.C.O.P.No.330 of 2009. However, during the pendency of the eviction petition, the sub tenant, the fourth respondent herein has approached the second respondent to regularise his tenancy. On the basis of the representation of the fourth respondent, the third respondent conducted an enquiry, in which, the fourth respondent had agreed to pay the enhanced rent from Rs.9,403/- to Rs.18,000/- per month and also agreed to pay the rental arrears of Rs.6,40,596/-. Accepting the same, the lease was regularised in favour of the fourth respondent. Challenging the order the present writ petition has been filed.

3. Mr.M.Arumugam, learned counsel for the petitioners would submit that the impugned order has been passed in violation of the principles of natural justice, since no opportunity was given to the petitioners before passing the order.

4. Per contra, Mr.M.Maharaja, learned Special Government Pleader appearing for the respondents 1 and 2 would contend that the order impugned in this writ petition is appealable. Further, there is no agreement between the petitioners and the third respondent. But, the third respondent had entered into an agreement with the original tenant Parvathy Bai, who has not challenged the order of the second respondent.

5. Mr.S.Suriya Prakash, learned counsel for the fourth respondent would submit that as agreed the fourth respondent had paid the rental

arrears of Rs.6,40,596/-. At present, the fourth respondent is paying the monthly rent of Rs.66,300/-, to the third respondent.

6. In the case on hand, admittedly, the original tenant namely Parvathi Bai had sub let the premises to the fourth respondent, which is evident from the affidavit filed in support of the writ petition. It is also not in dispute that the order impugned in this writ petition is an appealable, but, the petitioners without exhausting the effective remedy have filed this writ petition.

7. In the light of the above facts, I find no merit in the writ petition. Accordingly, the writ petition fails and the same is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

- 1.The Commissioner,
H.R & C.E. Department,
Government of Tamil Nadu,
Nungambakkam High Road, Chennai - 600 034.
- 2.The Joint Commissioner,
H.R & C.E. Department,
Government of Tamil Nadu,
Nungambakkam High Road, Chennai - 600 034.
- 3.A/m.Parthasarathy Swami Thirukoil,
Rep.by its Executive Officer,
Triplicane, Chennai - 600 005.

+1cc to Mr.S.Suriyaprakash, Advocate Sr.72016
+1cc to the Special Government Pleader Sr.72884

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nmI[co]
srg 28/09/2019