

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2019

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.8485 of 2019

M.Damodaran

... Petitioner

Vs

1. The Deputy Commissioner
Hindu Religious and Charitable Department,
No.697, RTO Office Salai,
Nehru Nagar Phase 2,
Sathuvacheri,
Vellore District,
Vellore - 632 009.

2. Executive Officer,
Arulmighi Ekambaranathar Thirukkoil,
Kancheepuram - 631 502

... Respondents

Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the 1st respondent to consider the petitioner's representation dated 14.02.2019 for effecting the transfer of tenancyship in favour of the petitioner in respect of the shop bearing Old No.32, New No.78, Tylors Salai, Shop No.1B, Kilpauk, Chennai - 600 010.

For Petitioner : Mr.P.L.Vendan

For Respondents : Mr.M.Maharaja
Special Government Pleader
for R1

Mr.P.V.Arul Phazamnee
for R2

O R D E R

This Writ Petition is filed seeking for a mandamus directing the first respondent to consider the petitioner's representation dated 14.02.2019, wherein and wherein, he sought for effecting transfer of tenancyship in his favour in respect of Old No.32, New No.78, Tylors Salai, Shop No.1B, Kilpauk, Chennai - 600 010.

2. Heard the learned counsel for the petitioner,

Mr.M.Maharaja, learned Special Government Pleader appearing for the first respondent and Mr.P.V.Arul Phazamnee, learned counsel appearing for the second respondent.

3. The petitioner claims to be in possession of the subject matter property by taking lease from one Manoharan, who is said to be the lessee of the subject matter shop under the 2nd respondent Temple. Now, the petitioner seeks for transfer of tenancyship in his favour from the name of the said Manoharan.

4. Learned counsel appearing for the respondents submitted that the petitioner herein is not a tenant or recognised sub tenant under the second respondent Temple at any point of time and therefore, the question of considering his representation does not arise, more particularly, when the petitioner has not paid any rent to the Temple nor it is received by the Temple till this date.

5. It is an admitted case of the petitioner that he is not the tenant under the second respondent Temple and on the other hand, he took the premises on lease from the third party, namely, Manoharan. There is no dispute to the fact that the property belongs to the second respondent Temple. When such being the factual position, I do not understand as to how the petitioner seeks as a matter of right for transfer of tenancyship from one Manoharan to the petitioner. Therefore, I find that the very representation itself is totally misconceived and mischievous.

6. Learned counsel for the petitioner relied on some communication issued by the second respondent to the petitioner in respect of the subject matter premises. Needless to say that when eviction proceedings is pending against the original lessee, the second respondent Temple is not justified in issuing any communication to the petitioner either to justify or recognise the occupation of the petitioner in the said property, when admittedly, the petitioner is not a tenant or sub-tenant of the second respondent Temple. Therefore, the petitioner is not entitled to take shelter under any of the unsustainable communication issued by the second respondent. Accordingly, I find no bonafide on the part of the petitioner. Consequently, the Writ Petition fails and the same is dismissed. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

vsi/gsi

To

The Deputy Commissioner
Hindu Religious and Charitable Department,
No.697, RTO Office Salai,
Nehru Nagar Phase 2,
Sathuvacheri,
Vellore District,
Vellore - 632 009.

+1 cc to The Government Pleader, Sr.No. 33615

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VBA(CO)
CSL/07.05.2019



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