

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.4.2019

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

WRIT APPEAL NO.1254 OF 2019 & CMP.NO.8944 OF 2019

S.ARUNACHALAM

...APPELLANT

Vs

1.P.SELVARAJAN

2.THE PRINCIPAL SECRETARY/  
COMMISSIONER, HINDU RELIGIOUS &  
CHARITABLE ENDOWMENTS DEPARTMENT,  
119, UTHAMAR GANDHI SALAI,  
NUNGAMBAKKAM, CHENNAI-34.

3.THE JOINT COMMISSIONER, HINDU  
RELIGIOUS & CHARITABLE ENDOWMENTS  
ADMINISTRATION DEPARTMENT, 319,  
THIRUGNANASAMBANDAR STREET,  
STATE BANK COLONY, SALEM-4.

4.THE EXECUTIVE OFFICER, ARULMIGHU  
VELLAI PILLAYAR THIRUKOVIL,  
ATTUR-636102, SALEM DISTRICT.

5.Y.ABDUL KALAM AZAD

6.M.RAJALAKSHMI

7.G.VENKATESAN

8.T.M.GURUSAMY CHETTIAR

9.N.S.SELVAN

10.T.VANAVIL

11.S.SENTHIL KUMAR

12.A.V.THANGAVEL

13.R.SETHU

14.S.GOVINDARAJULU

15.V.SUBASH CHANDRA BOSE

16.R.SOMASUNDARAM

17.B.PERIYASAMY

18.S.MUTHU

19.T.A.SAMPATH KUMAR

20.A.M.RAMASAMY  
21.N.RAMACHANDRAN  
22.J.RAMARAJU  
23.V.P.RAJAN  
24.A.NIRMAL PRAKASH  
25.V.SELVAN  
26.R.PRABHAKARAN  
27.A.THIYAGARAJAN  
28.V.MADHESWARAN  
29.R.DHARMAKRISHNAN  
30.R.MUTHU GOUNDER  
31.S.PADMAVATHY

...RESPONDENTS

(Respondents 5 to 31 given up as unnecessary parties vide separate Memo)

APPEAL under Clause 15 of the Letters Patent against the order dated 19.12.2018 made in WP.No.28499 of 2018.

WP.No.28499 of 2018:-

Writ Petition filed under Article 226 of the Constitution of India, praying to issue writ of Mandamus to direct the 1<sup>st</sup> to 3<sup>rd</sup> respondents to conduct fresh auctions for the shops situated in 2.78 Acres of Land belonging to the Arulmigu Vellai Pillayar Kovil, Attur, Salem District.

For Appellant : Mr.Murugamanickam, SC for  
Ms.Zeenath Begum

For Respondent-1 : Mr.Gokulakrishnan

For Respondents 2 & 3: Mr.M.Maharajan, SGP

For Respondent-4 : Mr.A.Rajkumar

Judgment was delivered by T.S.SIVAGNANAM, J

We have heard Mr.T.Murugamanickam, learned Senior Counsel appearing on behalf of Ms.Zeenath Begum, learned counsel on record for the appellant, Mr.Gokulakrishnan, learned counsel accepting notice for the first respondent, Mr.M.Maharajan, learned Special Government Pleader accepting notice for respondents 2 and 3 and Mr.A.Rajkumar, learned counsel accepting notice for the fourth respondent. Respondents 5 to 31 were given up by the appellant in this appeal.

2. This appeal is directed against the order dated 19.12.2018 passed by the learned Single Judge in W.P.No.28499 of 2018 filed by the first respondent herein, who claimed that he is ardent worshiper of the third respondent temple and his grievance was that the Executive Officer of the temple had not taken any action against the private respondents, who were impleaded as respondents 4 to 31 in the said writ petition as they were defaulters and that the meagre rent, which was fixed had not been paid by them.

3. The appellant before us was impleaded as the 12<sup>th</sup> respondent in the said writ petition. In the said writ petition, respondents 5 and 26 alone entered appearance through counsel. After hearing the parties, who were present before court, the learned Single Judge came to the conclusion that all the tenants are in arrears, that none of them followed the laws and that some of them sub-let the premises, etc., and therefore, ultimately directed action to be initiated under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (for brevity, the Act) within a period of three months while further making it clear that no further time would be granted and thereafter, the shops should be auctioned. Accordingly, the said writ petition was disposed of by the impugned order.

4. Thereafter, the Executive Officer of the temple issued a notice dated 31.12.2018, by which, not only the arrears of rent determined at Rs.3,30,230/- were directed to be paid on or before 31.1.2019, but also the appellant was directed to vacate and hand over possession to the Executive Officer. It is seen that earlier, a notice dated 10.9.2018 was issued to the appellant by the Executive Officer directing the appellant to pay the enhanced lease rent. It appears that as against the said notice, the appellant filed an appeal before the Commissioner, Hindu Religious and Charitable Endowment Department and that the said appeal is stated to be pending and is yet to be numbered.

5. The learned Special Government Pleader points out that in terms of Section 34 of the Act, any appeal could be entertained by the Commissioner only if 50% of the enhanced rent is remitted.

6. Admittedly, this had not been done by the appellant. Be that as it may, as of now, the appellant submitted their objections to the said notice dated 31.12.2018 and the date of personal hearing is fixed on 16.4.2019. Now that the hearing has been fixed by the Executive Officer, it is but appropriate for the appellant to participate in that hearing.

7. According to the appellant, he has been paying the monthly rent of Rs.3,585/- and on his own volition, he added 15% of the said rent and has been paying Rs.4,130/- as monthly rent from 2016 onwards as against the demand of Rs.25,000/- per month.

8. In any event, the appellant seeks to pursue the appeal before the Commissioner in that regard. Considering the above facts, we are of the view that no prejudice has been caused to the appellant on account of the order passed in the said writ petition.

9. It is submitted by the learned counsel appearing for the fourth respondent - Executive Officer that though notices were served on the appellant, yet he did not choose to engage a counsel nor participate in the hearing of the said writ petition, but was watching the proceedings.

10. We do not wish to go into the controversy on account of the simple fact that all that has happened prior to the directions issued in the said writ petition. Now that there has been a direction to initiate action under Section 78 of the Act, the appellant is bound to participate in the proceedings and respond to the notices issued by the Competent Authority. Considering these facts, we only protect the appellant's possession and make it clear that he shall not be evicted till orders are passed by the Competent Authority in pursuance of the notice dated 31.12.2018.

11. In the result, the above writ appeal is dismissed with the above observations. No costs. Consequently, the connected CMP is also dismissed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

RS

TO

1. THE PRINCIPAL SECRETARY/COMMISSIONER,  
HINDU RELIGIOUS &  
CHARITABLE ENDOWMENTS DEPARTMENT, 119,  
UTHAMAR GANDHI SALAI,  
NUNGAMBAKKAM, CHENNAI-34.

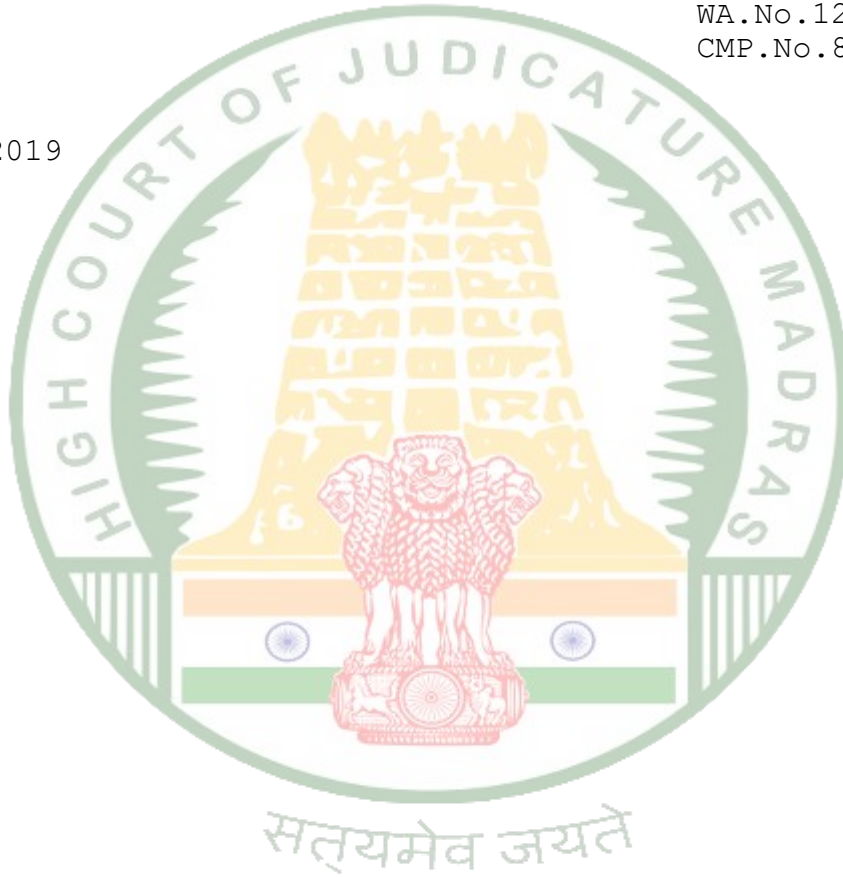
2. THE JOINT COMMISSIONER, HINDU RELIGIOUS & CHARITABLE  
ENDOWMENTS ADMINISTRATION DEPARTMENT, 319,  
THIRUGNANASAMBANDAR STREET, STATE BANK COLONY, SALEM-4.

3. THE EXECUTIVE OFFICER,  
ARULMIGHU VELLAI PILLAYAR THIRUKOVIL,  
ATTUR-636102, SALEM DISTRICT.

+1cc to Ms.Zeenath Begum, Advocate, S.R.No.34575  
+1cc to Mr.Gokulakrishnan, Advocate, S.R.No.34614  
+1cc to the Government Pleader, S.R.No.36360

WA.No.1254 of 2019&  
CMP.No.8944 of 2019

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CS/15/04/2019



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