

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2019

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Writ Appeal Nos.1465, 1466 and 1467 of 2019
and C.M.P.Nos.10013, 10014, 10018, 10020, 10030 and 10032 of 2019

K.Balasubramanian ... Appellant in W.A.Nos.1465 of 2019
and W.A.No.1466 of 2019

A.Sugumaran ... Appellant in W.A.No.1467 of 2019

-Vs-

1. P.Selvarajan
2. The Principal Secretary / Commissioner
Hindu Religious & Charitable Endowments Department
119, Uthamar Gandhi Salai, Chennai 600 034.
3. The Joint Commissioner
Hindu Religious & Charitable Endowments Department
Administration Department, 319, Thirugnanasambandar
Street, State Bank Colony, Salem-636 004.
4. The Executive Officer
Arulmighu Vellai Pillayar Thirukkivil
Attur, Salem District - 636 102.
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. S.Arunachalam
14. R.Sethu
15. S.Govindarajulu
16. V.Subhash Chandra Bose
17. R.Somasundaram
18. B.Periyasamy
19. S.Muthu

20.T.A.Sampath Kumar
21.A.M.Ramasamy
22.N.Ramachandran
23.J.Ramaraju
24.V.P.Rajan
25.A.Nirmal Prakash
26.V.Selvan
27.R.Prabhakaran
28.A.Thiyagarajan
29.V.Madheswaran
30.R.Dharmakrishnan
31.R.Muthu Gounder
32.Padmavathy

.... Respondents in all appeals

Prayer : Writ Appeals under Clause 15 of the Letters Patent against the order passed in W.P.No.28499 of 2018 dated 19.12.2018.

Prayer in W.P.No.28499 of 2018:filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the 1st to 3rd 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 in all W.As. : Mr.M.Rajendran

For Respondents 2-4 in all W.As.: Mr.M.Maharaja,
Special Government Pleader
(HR & CE)

J U D G M E N T

(Judgment of the Court was delivered by T.S.SIVAGNANAM, J.)

Heard Mr.M.Rajendran, learned counsel for the appellants and Mr.Maharaja, learned Special Government Pleader (HR & CE). We had an occasion to consider the identical issue in W.A.No.870 of 2019 and the appeal was disposed of by a judgment dated 14.03.2019. The relevant portion of the judgment reads as follows.

" 2. The grievance of the appellant, the 31st respondent in the writ petition is that soon after the writ petition was disposed of, the Executive Officer issued a proceedings dated 31.12.2018, by which the Executive Officer has not only demanded enhanced rent with retrospective effect, but directed the appellant to pay the enhanced rent, vacate and hand over vacant possession of the

premises in the occupation of the appellant. The appellant filed W.P.No.2135 of 2019 before this Court, challenging the proceedings of the Executive Officer dated 31.12.2018, but subsequently withdrawn the same and filed the present appeal, on the ground that the proceedings of the Executive Officer dated 31.12.2018 is a sequel to the order passed in the writ petition, which is the subject matter of the appeal.

3. Learned counsel for the appellant would submit that the entire arrears, which has been demanded in the proceedings dated 31.12.2018 has been paid by the appellant, and yet there is a threat of being forcibly dispossessed from the premises, since in the proceedings dated 31.12.2018, there was a direction to the appellant to pay arrears of rent and license fee and to vacate and hand over the vacant possession of the premises.

4. Learned Special Government Pleader appearing for the respondents would submit that the appellant need not have any such apprehension because the proceedings dated 31.12.2018 is a demand for payment of rent / license fee at the appropriate rate and if the same has been remitted by the appellant, then she has to execute fresh documents in favour of the temple. It is further submitted that some of the occupants, who were also arrayed as respondents in the writ petition, have preferred appeals before the Commissioner of H.R.&C.E. against the proceedings of the Executive Officer dated 31.12.2018 and the matter is now pending before the Commissioner. Mr.M.Rajendran, learned counsel for the appellant would submit that the appellant has also filed a petition before the Commissioner, H.R.&C.E., and the same is yet to be numbered.

5. We are of the view that the appeal possibly will be numbered, provided the appellant produces the proof to show that the entire payment as demanded in the proceedings dated 31.12.2018, issued by the Executive Officer, is produced before the office of the Commissioner, H.R.&C.E. In the light of the

above, the apprehension of the appellant that she will be evicted from the premises is without any basis, more particularly in the light of the stand taken by the learned Special Government Pleader appearing for the official respondents herein. Accordingly, the writ appeal stands disposed of, giving liberty to the appellant to pursue the appeal before the Commissioner, H.R. & C.E.

2. Learned counsel appearing for the appellants fairly submits that insofar as the appellants are concerned, they are yet to pay the entire arrears, as per the rent fixed as well as refixed, and they may be granted reasonable time to effect such payment. The payment of the fixed / refixed amount is a statutory requirement in terms of Section 34(A)(5) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. Therefore, unless and until this mandatory condition is complied with by the appellants, they cannot pursue the appeal before the Commissioner, HR & CE. However, considering the fact that the other appeals are also pending, we grant three weeks time from the date of receipt of a copy of this judgment, to pay the entire arrears, as demanded by the competent authority and on such payment and producing the proof of payment, the Commissioner, HR & CE may consider the appeals along with the other appeals, which are pending. Further more, as observed in the earlier judgment, if the appellants produce the proof to show that the entire payment as demanded in the proceedings dated 31.12.2018 is produced, then the appellants need not have any apprehension that they will be dispossessed. With the above observations, these appeals are disposed of. No costs. Consequently, connected C.M.P.Nos.10013, 10014, 10018, 10020, 10030 and 10032 of 2019 are closed.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

- 1.The Principal Secretary / Commissioner
Hindu Religious & Charitable Endowments Department
119, Uthamar Gandhi Salai, Chennai 600 034.

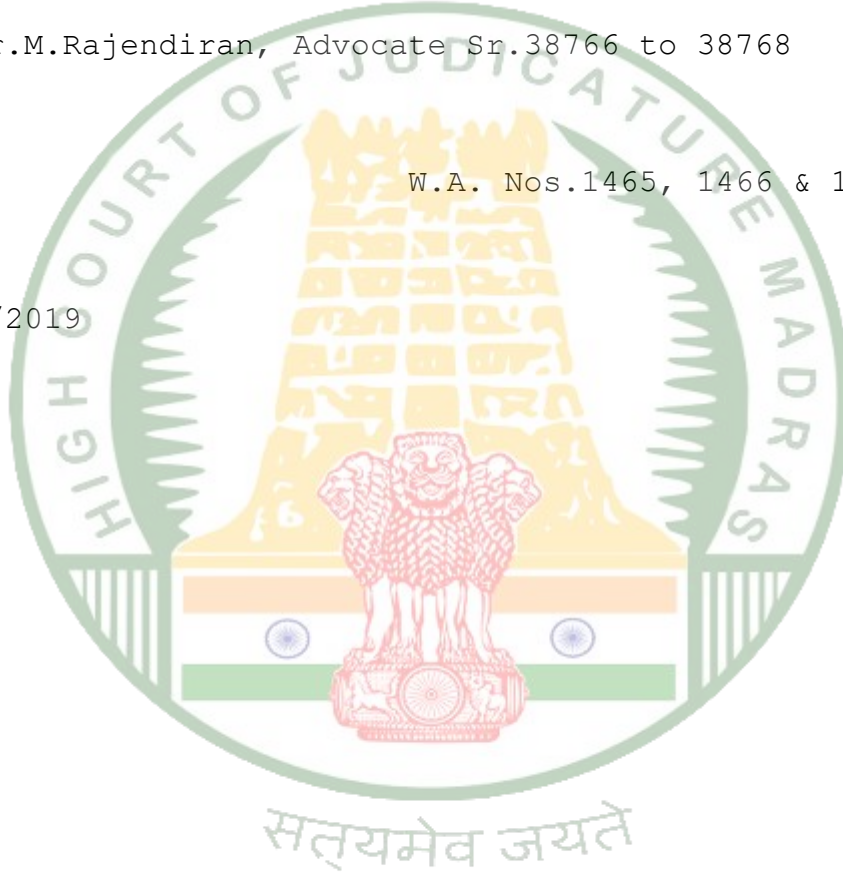
2.The Joint Commissioner
Hindu Religious & Charitable Endowments Department
Administration Department, 319, Thirugnanasambandar
Street, State Bank Colony, Salem-636 004.

3. The Executive Officer
Arulmighu Vellai Pillayar Thirukkivil
Attur, Salem District - 636 102.

+3cc to Mr.M.Rajendiran, Advocate Sr.38766 to 38768

W.A. Nos.1465, 1466 & 1467 of 2019

ev[col
srg 24/05/2019



WEB COPY