

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.21936 of 2018

M.Kumar

Proprietor of M/s.M.K.Enterprises

Old No.63, New NO.36

Mir Bakshi Ali Street,

Royapettah, Chennai-600 014.

...Petitioner

Vs.

1.The Commissioner

HR&CE

Nungambakkam

Chennai-600 034.

2.The Joint Commissioner/Executive Officer

Arulmigu Kabalishwarar Temple

Mylapore, Chennai-600 004.

3.Jeeven Press

Represented by its Manager M.Gopal

No.163, Big Street,

Triplicane, Chennai-600 005.

....Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent in Roc.No.10208/2018/R2 and quash the order dated 15.06.2018 and consequently, to permit the petitioner to remove his machineries locked up in the premises bearing No.163, Big Street, Triplicane, Chennai-600 005.

For Petitioner : Mr.T.M.Hariharan

For Respondent : Mr.M.Maharaja
Special Government Pleader
for R1
Mr.A.K.Sriram
for Mr.A.S.Kailasam, for R2
Mr.K.A.Mariappan, for R3

O R D E R

This writ petition is filed challenging the order of the first respondent dated 15.06.2018, wherein and whereby, the request of the petitioner to remove the machineries stored in the third respondent Press was rejected on the ground that the petitioner is not having any right to seek for return of the machineries from the respondents 1 & 2, since the third respondent being the tenant, had failed to pay the arrears of rent to the tune of Rs.34,12,842/- as on 30.12.2016 and that the eviction proceedings initiated against the third respondent has also resulted in taking possession of the property by the second respondent.

2. Heard both sides.

3. There is no dispute to the fact that as against the third respondent, proceedings under Section 78 of the Hindu Religious and Charitable Endowments Act, was initiated, which has ultimately resulted in passing the order of eviction. It is stated that the revision filed by the third respondent before the first respondent against the said order of eviction also came to be dismissed. It is further stated that the third respondent has not filed any further revision or appeal against the order of eviction. Thus, it is stated that consequent upon the order of eviction passed under Section 78 of the HR&CE Act, confirmed by the first respondent, the possession of the property has been taken from the third respondent. Now, the petitioner contends that his machineries are at the hands of the third respondent and therefore, those machineries should be returned to him.

4. I do not think that the petitioner is entitled to seek for such relief, as it is a pure civil dispute between him and the third respondent, which has to be agitated and adjudicated upon only before the competent Civil Court. Admittedly, the third respondent has not paid the arrears and he has been evicted. Under such circumstances, when the possession is taken by the second respondent with all the belongings inside the premises, the request of the petitioner cannot be considered in respect of the things available in the premises, so as to issue a direction for returning the same as sought for by the petitioner. In any event, if the petitioner is having any right

over the third respondent for return of the machineries, it is for him to work out such remedy in appropriate proceedings before the appropriate Civil forum. Granting such liberty, this writ petition is dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mk

To

1.The Commissioner
HR&CE
Nungambakkam
Chennai-600 034.

2.The Joint Commissioner/Executive Officer
Arulmigu Kabalishwarar Temple
Mylapore, Chennai-600 004.

+1 cc to M/s.T.M.Hariharan, Advocate, S.R.No.23386

+1 cc to M/s.A.S.Kailasam, Advocate, S.R.No.23333

+1 cc to the Spl. Government Pleader (HR&CE), S.R.No.25187

W.P.No.21936 of 2018

NRL (CO)
SSM(22/03/2019) .

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