

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.05.2019

CORAM:

THE HONBLE MR. JUSTICE N.SATHISH KUMAR

W.P.No.15160 of 2019
and
W.M.P.No.15147 of 2019

S.Ganesan

... Petitioner

/vs/

1.The Commissioner,
Hindu Religious and Charitable Endowments
Department,
Nungambakkam High Road,
Chennai - 600 034.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowments,
Department,
Salem.

3.The Executive Officer,
Arulmighu Vellaipillaiyar Temple,
Attur Town, Salem District.

4.S.Govindarajalu.

... Respondents

Prayer This Writ petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records of the proceedings dated 25.04.2019 bearing nil on the file of the 3rd respondent and to quash the same as illegal and without jurisdiction, and to consequently direct the 3rd respondent to forward the proposal of the petitioner to the 1st respondent for consideration and decision under Section 34 of the Hindu Religious and Charitable Endowments Act, 1956.

For Petitioner :Mr.Sharath Chaudeen

For Respondents:Mr.M.Maharajan,

SGP(HR & CE) for R1 to R3

O R D E R

By consent, the writ petition itself is taken up for final disposal.

2. Heard the learned counsel for the petitioner and Mr.S.Maharajan, learned Special Government Pleader (HR & CE) who accepted notice for respondents 1 to 3.

3. The petitioner has filed this writ petition praying for a Writ of Certiorarified Mandamus, to call for the records of the proceedings dated 25.04.2019 bearing nil on the file of the 3rd respondent and to quash the same as illegal and without jurisdiction, and to consequently direct the 3rd respondent to forward the proposal of the petitioner to the 1st respondent for consideration and decision under Section 34 of the Hindu Religious and Charitable Endowments Act, 1956.

4. It is the contention of the writ petitioner that the land at Door No.574 and 575, New Door No.960 and 962, Cuddalore main road, Attur, Salem District belongs to the 3rd respondent temple. In 1948, the land was leased out to the petitioner's father Mr.Sarangapani Naidu. His father had constructed a building and commenced a hotel under the name and style of "Hotel Gowrishankar". Until 1982, there was no dispute over any issue. however, after the death of his father, the 4th respondent stealthily obtained a transfer of the lease in his name and later had it changed to that of his wife. In the meantime, a dispute arose between the petitioner and his brother regarding payment of rent for the premises-in-occupation. The 4th respondent deliberately refused to pay the rent and his offer to tender payment was repeatedly refused by the respondent on the ground that the lease stood in the name of his brother.

5. However, now the learned Counsel for the petitioner submits that the petitioner is ready to deposit the arrears of rent of Rs.17,00,000/- and also prepared to pay a portion of rent that may be fixed by the Commissioner. In this regard, he has already given a representation to the Commissioner, who is a competent person to pass an order. But, the impugned order has been passed by the Executive Officer, which is unsustainable in law. Therefore it is the contention of the learned Counsel for the petitioner that a direction may be issued to the Commissioner/1st respondent to consider the petitioner's representation dated 13.12.2018 and pass orders on merits.

6. The learned counsel for the respondents submitted that the Commissioner may be directed to pass an order.

7. In view of the above fact, I am of the view that since the Executive Officer/3rd respondent is not a competent person to pass the impugned order, the same cannot be given effect to. However the Commissioner/1st respondent is directed to dispose of the representation of the petitioner dated 13.12.2018 and pass orders on merits and in accordance with law. Such exercise shall be completed within a period of two months from the date of receipt of a copy of this order.

8. With the above direction the writ petition is disposed of. No costs. Consequently connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

dpq/tsg

To

- 1.The Commissioner,
Hindu Religious and Charitable Endowments
Department,
Nungambakkam High Road,
Chennai - 600 034.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Endowments,
Department,
Salem.
- 3.The Executive Officer,
Arulmighu Vellaipillaiyar Temple,
Attur Town,
Salem District.

+1cc to Mr.Govind Chandra Sekhar, Advocate sr.44491
+1cc to Government Pleader sr.44520

W.P.No.15160 of 2019
and
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nr 26/06/2019