

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2019

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 32344 of 2019
and
W.M.P. No. 32641 of 2019

B. Kumar

... Petitioner

-vs-

1. The Commissioner,
Hindu Religious and Charitable Endowment
Department (HR & CE),
Nungambakkam,
Chennai - 600 034.

2. The Deputy Commissioner/
Executive Officer,
Arulmigu Parthasarathy Swamy Thirukoil,
Triplicane,
Chennai - 600 005.

... Respondent

Prayer: 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 impugned order dated 13.11.2019 in Na.Ka.No. 861/2018/As3 passed by the Second Respondent and quash the same, consequently forbear the Second Respondent from interfering the peaceful possession and enjoyment of the Petitioner as per the allotment order dated 22.06.2019 for the period of 3 years.

For Petitioner : Mr. M.R. Jothimanian

For Respondents: Mr. M. Maharaja
Special Government Pleader (HR & CE)
for R1
Mr. N. Ramesh for R2.

O R D E R

Heard Mr. M.R. Jothimanian, Learned Counsel for the Petitioner, Mr. M. Maharaja, Learned Special Government Pleader (HR & CE), who takes notice for the First Respondent and Mr. N. Ramesh, Learned Counsel, who takes notice for the Second Respondent, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner had taken the property belonging to the Second Respondent on lease in public auction agreeing to pay a sum of Rs.29,000/- per month. During an inspection conducted by the Second Respondent on 12.11.2019, it had been found that the Petitioner was serving non-vegetarian food in the premises, which is in breach of the terms of lease entered between the parties. In pursuance thereof, the Second Respondent has passed the order dated 13.11.2019 cancelling the lease.

3. Aggrieved thereby, the Writ Petition has been filed challenging the order Na. Ka. No. 861/2018/Aa3 dated 13.11.2019 passed by the Second Respondent and for consequential direction to forbear the Second Respondent from interfering with the peaceful possession and enjoyment of the Petitioner as per the allotment order dated 22.06.2019 for the period of three years.

4. In response to the specific query raised by this Court, it is informed by the Learned Counsel for the Second Respondent that before issuing the impugned order entailing any adverse civil consequences to the Petitioner, no show cause notice has been issued. In such circumstances, the impugned order, which is in violation of the principles of natural justice, cannot be sustained. Accordingly, the order Na. Ka. No. 861/2018/Aa3 dated 13.11.2019 is set aside and the matter is remitted to the Second Respondent to issue show cause notice to the Petitioner with the materials relied by the Second Respondent to come to the conclusion that the Petitioner has committed breach in the terms of the lease. After affording full opportunity of hearing to the Petitioner, the Second Respondent shall consider the contentions that may be raised by the Petitioner and pass reasoned orders on merits in accordance with law and communicate the decision taken to the Petitioner under written acknowledgment.

5. The Writ Petition is disposed on the aforesaid terms. It is made clear that no view has been expressed by this Court on the correctness or otherwise on the merits of the rival contentions of the parties. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar (CS-IX)

//True copy//

Sub Assistant Registrar

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To

1. The Commissioner,
Hindu Religious and Charitable Endowment
Department (HR & CE),
Nungambakkam,
Chennai - 600 034.

2. The Deputy Commissioner/
Executive Officer,
Arulmigu Parthasarathy Swamy Thirukoil,
Triplicane, Chennai - 600 005.

+1cc to Mr.M.R. Jothimanian, Advocate SR.No.95836

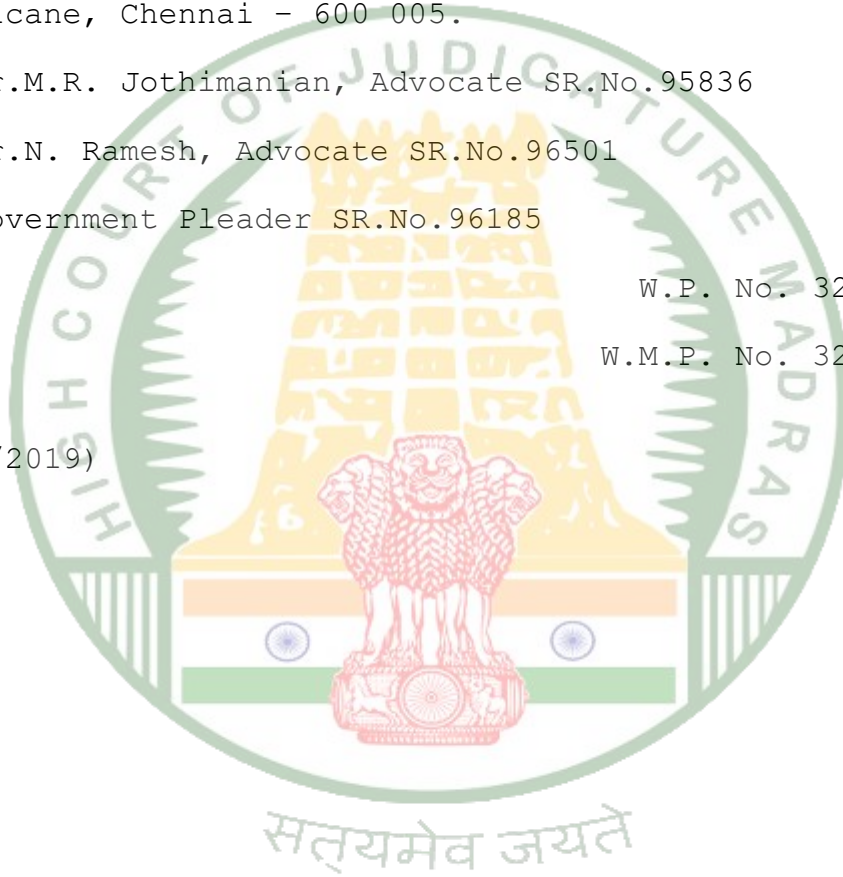
+1cc to Mr.N. Ramesh, Advocate SR.No.96501

+1cc to Government Pleader SR.No.96185

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and

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GMV (02/12/2019)



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