

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 31.01.2019

CORAM
THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P. No.28751 of 2018
and
W.M.P.Nos.33584 & 39220 of 2018
and
W.M.P.No.39220 of 2018

D.Malar

.. Petitioner

Vs.

1.The District Collector,
Sathuvachari,
Vellore.

2.The Commissioner,
Arcot Municipality,
Arcot,
Vellore District.

3.The Tamil Nadu Waqf Board,
Rep. by Chief Executive Officer,
No.1, Jaffer Sarang Street,
Vallal Seethakathi Nagar,
Chennai - 600 001.

.. Respondents

PRAYER : Writ Petitions filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus forbearing the 2nd and 3rd respondents or the subordinates from in any manner interfering with the petitioner use and occupation of the building at Old Door No.43, New Door No.41A, Anna Salai, Arcot Town in Old Survey No.848 part TS No.30 part 4th Block Ward C, Arcot District except due process of law.

For Petitioner : Mr.K.Mohanamurali

For R1 : Mr.E.Balamurugan
Special Government Pleader

For R2 : Mr.J.Pothiraj

For R3 : Ms.R.Sripriya
for Mr.V.Lakshminarayanan

O R D E R

The Writ Petition has been filed by the petitioner seeking to forbear the respondents 2 and 3, who are the Commissioner of Municipality and Tamil Nadu Waqf Board from in any manner interfering with the petitioner's occupation of the building at Old Door No.43, New Door No.41A, Anna Salai, Arcot Town in Old Survey No.848 part TS No.30 part 4th Block Ward C, Arcot District.

2. Heard, the learned counsel appearing on both sides.

3. It is stated by the petitioner that he entered into an agreement dated 15.01.2002 with one Ragi Munisa Begam by paying an rental advance of Rs.10,000/- and a monthly rent of Rs.200/-. After taking the property on lease, a pucca structure was put up on the property and electricity connection was also obtained. The first and second respondents evicted the petitioner from the premises by virtue of the order dated 12.07.2018 passed in W.P.No.17408 of 2018. It is now stated that the petitioner entered into a fresh agreement with the said Ragi Munisa Begam on 01.10.2018 and seeks the relief of forbearing the second and third respondents from interfering with his possession, unless due process of law is followed.

4. The second respondent has filed a vacate stay petition stating that the petitioner is guilty of suppressio veri and suggestio falsi. It is stated that the writ petitioner was in possession at D.No.41A of Anna Salai, Arcot Town, which is an unauthorised construction. A writ petition in W.P.No.5484 of 2016 filed by the third respondent for the relief of mandamus seeking a direction to take action against the writ petitioner and others. In the said writ petition, the Division Bench directed the authorities to provide an opportunity to the respective parties and pass orders within a period of six weeks in accordance with law. Accordingly, notices were issued including the petitioner herein. However, aggrieved by the inaction, the third respondent filed contempt petition No.1830 of 2017 before this Court. In the said contempt petition a status report was filed and a notice was issued on 06.03.2018 and on 13.03.2018. A criminal complaint has also been filed before the Magistrate Court against the petitioner herein and a charge sheet dated 10.04.2018 was also issued to the petitioner. Thereafter, W.P.No.17408 of 2018 by the petitioner was filed seeking the relief of mandamus forbearing the respondents from initiating any coercive action of demolition without due process of law. A Division Bench of this Court had directed the second respondent to de-seal the premises. However, on mentioning by the counsels, the said writ petition was tagged along with the Contempt Petition No.1830 of 2017 and the Division Bench directed the second respondent/Municipality to complete the

proceedings under the Tamil Nadu District Municipalities Act taking into consideration the unauthorised construction put up by the petitioner herein.

5. Suppressing all the above said facts, the present writ petition is filed based on an alleged lease agreement entered into with the person, who is not authorised to enter into such lease deed. It is now stated by the learned counsel for the Municipalities/second respondent that the petitioner is not in occupation of the premises, as the same has been taken possession by them and the petition mentioned premises is already sealed. In such circumstances, the prayer of the petitioner cannot be allowed.

6. Accordingly, this Writ Petition is dismissed as devoid of merits. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rsi

To

The District Collector,
Sathuvachari,
Vellore.

+1cc to Mr.J.Pothiraj, Advocate, S.R.No.8844

W.P. No.28751 of 2018
and

W.M.P.No.33584 of 2018

CP(CO)

rrs 26/02/2019

WEB COPY