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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 14.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE K. KALYANASUNDARAM
AND

THE HONOURABLE MRS. JUSTICE R. THARANI

W.A(MD)NO.185 OF 2019

G.Vivekanandan : Appellant/third respondent
.vs.

1.S.Muthuramalingam : 1st Respondent/Petitioner

2.The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
Madurai.

3.The Assistant Commissioner,
Hindu Religious and Charitable
Endowment Department,
Madurai. : 2nd & 3rd Respondents/Respondents 1 & 2

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent praying this Court to set aside the order passed by this Court in W.P(MD)No.18875 of 2017, dated 27.6.2018.

Prayer in WP(MD)No. 18875/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Mandamus directing the 1st and 2nd respondents herein to hand over the seized Papers, which were taken away by them on 28.09.2017 from the premises bearing D.No.46, North Perumal Maistry Street, Madurai, to the petitioner.

For appellant	: Mr.J.John
For Respondent-1	: Mr.P.Subbaraj
For Respondent-2	: Mr.Aayiram K.Selvakumar Addl.Govt.Pleader
For Respondent-3	: Mr.M.Muthugeethayan

JUDGMENT

[Judgment of the Court was made by **K. KALYANASUNDARAM, J.**]

<https://hcservices.ecourts.gov.in/hcservices/>

This Writ Appeal is preferred against the order made in W.P(MD) No.18875 of 2017, dated 27.6.2018.



2.The appellant was third respondent in W.P(MD)No.18875 of 2017. The first respondent herein filed the Writ Petition seeking a direction to the respondents 1 and 2/respondents 2 and 3 herein to hand-over the seized papers, which were taken away by them on 28.09.2017 from the premises therein bearing D.No.46, North Perumal Maistry Street, Madurai to the Petitioner. The said Writ Petition was allowed as indicated below:

'21.W.P. (MD)No.18875 of 2017, has been filed by a stranger claiming to be in enjoyment of the property and carrying on business as a sub-tenant under the petitioner in other cases. The petitioner has filed the Writ Petition for directing the respondents 1 and 2 to hand over the seized papers belonged to the petitioner, which are taken away by the respondents on 28.09.2017 from the property bearing D.No.46, North Perumal Maistry Street, Madurai. No doubt, the respondents can exercise the power of Collector under the Tamil Nadu Revenue Recovery Act, 1864, to recover the arrears of rent from the tenants of the properties of the Temple. However the power cannot be enlarged to seize the goods or articles belong to any third party within the premises of the Temple. Hence the seizure of papers and articles that belongs to the petitioner is not authorised under any provisions of law. This Court has earlier passed an order in W.M.P. (MD)No.15223 in W.P(MD)No.18875 of 2017, directing the petitioner to take the papers and materials belong to the petitioner upon payment of Rs.10,00,000/- to the Executive Officer of the Temple, as the petitioner has come forward that the goods available within the demised premises were worth about Rs.50,00,000/- as per invoices and that allowing the goods under the custody of temple authorities may result in deterioration of the value of the goods. It was in that circumstances, the second respondent was directed to hand-over the goods, however, on condition.

22.Now the money to be deposited by the writ petitioner is available with the respondents. The temple authorities may not be aware of the ownership of the goods seized from the premises. Hence, upon satisfying the Executive Officer of the temple as to the ownership of the goods that were taken by the second respondent from the petitioner, the second respondent is directed to pay the amount collected from the writ petitioner pursuant to the direction of this Court. Since the petitioner was a sub-tenant under the main tenant, without the consent of the temple authorities, the temple authorities is directed to make payment out of money which is to be collected from the petitioner



pursuant to the direction of this Court, in the connected writ petitions. It is open to the temple authorities to approach this Court for further direction in this regard, in case any clarification is required in the event of any unforeseen circumstances.

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3.The learned counsel for the appellant would state that the admitted rent was being paid regularly, however, which was not taken note of by the learned Single Judge and there was an erroneous finding that the tenant has collected Rs.15,000/- from the Writ Petitioner.

4.In the instant case, it is to be noted that indisputably the appellant is neither a tenant under the respondents 2 and 3 herein nor any relief was sought for against him, though he was made as third respondent in the Writ Petition. It is to be further seen that the appellant's father M.Gurusamy was the original tenant and the allegation is that he has sub-let the premises to the first respondent herein.

5.In the light of the above facts, we are of the opinion that the appellant has no locus-standi to challenge the order passed in the Writ Petition in W.P(MD)No.18875 of 2017. In that view, the Writ Appeal fails and the same is dismissed. No costs.

Sd/-

Assistant Registrar

/ True Copy /

Sub Assistant Registrar(CS)

To

1.The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department, Madurai.

2.The Assistant Commissioner,
Hindu Religious and Charitable
Endowment Department, Madurai.

+1 CC to M/s.M.MUTHUGEETHAYAN, Advocate(SR-54057[F]dated 14/03/2019)
+1 CC to M/s.P.SUBBARAJ, Advocate (SR-54020[F] dated 14/03/2019)
+1 CC to M/s.J.JOHN, Advocate (SR-54087[F] dated 14/03/2019)

JUDGMENT MADE IN
W.A(MD)No.185 of 2019
14.03.2019