



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE **M. GOVINDARAJ**

WEB COPY

W.P. (MD) No. 23861 of 2019
and
W.M.P. (MD) No. 20486 of 2019

M. Gopalakrishnan

: Petitioner

Vs.

1. The Additional Chief Secretary,
Government of Tamil Nadu,
Tourism, Culture and Religious
Endowments Department, H.R. & C.E.,
Secretariat, Chennai-600 009.

2. The Commissioner,
Administrative Department,
Hindu Religious and Charitable Endowment,
Chennai.

3. The Joint Commissioner,
Hindu Religious and Charitable Endowment,
Madurai.

4. The Joint Commissioner/Executive Officer,
Arulmigu Meenakshi Sundareswarar Temple,
Madurai.

5. The Assistant Commissioner,
Hindu Religious and Charitable Endowment,
Madurai.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari Mandamus, to call for the impugned order passed by the first respondent in G.O. Ms. No. 130, dated 17.09.2019 and the consequential order passed by the fifth respondent in Na. Ka. No. 2900/2016-4/21, dated 18.10.2019 and to quash the same as illegal and directing the third respondent to regularise the tenancy of the petitioner for shop No. 159B/144C, South Masi Street, Madurai, on the basis of the circular passed by the second respondent vide Na. Ka. No. 29424/2011/M3, dated 25.09.2019 and to pass order thereon in accordance with law.

For Petitioner

: Mr. N. Murugesan

For Respondents

: Mr. VR. Shanmuganathan,
Special Government Pleader

Advocate Commissioner

: Mr. S. Parthiban



ORDER

Challenge to the Writ Petition is the order passed by the first respondent in G.O.Ms.No.130, Tourism, Culture and Religious Endowments Department, dated 17.09.2019 and the consequential order dated 18.10.2019.

2. The petitioner is a sub-tenant in respect of a portion belonging to Arulmighu Thenthiru Valavaya Swamy Temple, which is a sub-temple of Arulmighu Meenakshi Sundareswarar Temple. The third respondent has initiated eviction proceedings against the shop owners on the ground that there is no privity of contract between the temple and the shop owners. Whoever is in possession of the temple property, without proper agreement, would be considered as an encroacher. In that view of the matter, Shop No.9 under the occupation of the petitioner was originally allotted to one Allah Pitchai and thereafter, the petitioner's father has become a sub-tenant under him. The petitioner also produced rental receipts issued in the name of Allah Pitchai and even after his death. Therefore, the Joint Commissioner has found that the petitioner is an encroacher and he is liable to be evicted. The appeal and the revision filed by the petitioner before the second and first respondents were also dismissed and aggrieved over the same, the petitioner is before this Court.

3. The learned Special Government Pleader appearing for the respondents would vehemently contend that the petitioner's premises are required for Praharam of the temple. The factual submission was disputed by the learned counsel appearing for the petitioner and, therefore, an Advocate Commissioner was appointed to ascertain the factum of requirement. The learned Advocate Commissioner filed a report, wherein it is seen that there are three shops inside the Praharam and few other shops on the western side of the temple. The learned Special Government Pleader would also submit that totally five shops are existing there and out of that, two persons have handed over possession to the temple and in respect of other two, the revision is pending before the first respondent. Insofar as the petitioner is concerned, the revision was decided against him and he challenged the same in the present Writ Petition.

4. From the sketch, it can be inferred that without removing shop Nos.7 and 8, the petitioner's shop alone cannot be evicted and it will not serve any purpose. Therefore, while upholding the order of the first respondent, a direction is issued to the respondents to defer taking possession of the petitioner's shop till the disposal of the revision pending before the first respondent. Once a revision is decided against the other shop owners and possession is taken, the contiguous shop of the petitioner can also be taken possession.



5. The learned counsel appearing for the petitioner would fairly concede that when the adjacent shops lying between the temple and the petitioner are removed and possession is taken, the petitioner is also willing to hand over possession without any objection. It is made clear that the petitioner will not have any right to file or initiate any proceedings against eviction when possession is taken for shop Nos.7 and 8 found in the sketch of the Advocate Commissioner. The deferment of taking delivery of possession will not confer the petitioner of any right to continue without paying the fair rent. The petitioner shall continue to pay the fair rent till the possession is taken by the temple.

6. The Writ Petition is disposed of with the above observation. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar(CS)

SML

To

1.The Additional Chief Secretary,
Government of Tamil Nadu,
Tourism, Culture and Religious
Endowments Department, H.R.&C.E.,
Secretariat, Chennai-600 009.

2.The Commissioner, Administrative Department,
Hindu Religious and Charitable Endowment, Chennai.

3.The Joint Commissioner,
Hindu Religious and Charitable Endowment, Madurai.

4.The Joint Commissioner/Executive Officer,
Arulmigu Meenakshi Sundareswarar Temple, Madurai.

5.The Assistant Commissioner,
Hindu Religious and Charitable Endowment, Madurai.

+1CC TO MR.N.MURUGESAN, Advocate Sr. No.101211

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 101500

Order made in
W.P. (MD) No.23861 of 2019
Dated: 25.11.2019

PK(CO)

TR(10.12.2019) 3P 8C

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