



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **13.12.2019**

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P(MD)No.26542 of 2019

and

W.M.P. (MD) .No.22919 of 2019

WEB COPY

The Secretary,
0.1018, Sivakiri Co-Operative Society,
Sivakiri, Thirunelveli District.

... Petitioner

Vs.

- 1.The Executive Officer,
Tmt.Rani Karuppayee Nachiar Kattalai,
Sivakiri.
 - 2.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Tirunelveli.
 - 3.The Commissioner,
Hindu Religious and Charitable Endowment Department,
Nungambakkam High Road,
Chennai-600 034.
 - 4.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Tirunelveli.
- ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari Mandamus, calling for entire records relating to the impugned order dated 28.05.2019 passed by the 2nd respondent in I.A.No.1 of 2018 in M.P.No.76 of 2016 and quash the same as illegal and consequential direct the 2nd respondent herein to permit the petitioner to examine witnesses on his side and decide the M.P.No.76 of 2016 on merits after affording sufficient opportunity to parties concerned.

For Petitioner: Mr.S.Manikandan

For R1 : Mr.S.Manohar

For R2 to R4 : Mr.M.Pandiarajan

Additional Government Pleader

ORDER

Heard Mr.S.Manikandan, learned counsel appearing for the petitioner, Mr.S.Manohar, learned counsel appearing for the first respondent and Mr.M.Pandiarajan, learned Additional Government Pleader appearing for the respondent Nos.2 to 4.

2.The petitioner has filed the present writ petition challenging the impugned order dated 28.05.2019 passed by the second respondent in I.A.No.1 of 2018 in M.P.No.76 of 2016.



3. According to the petitioner, the petitioner Society is running a fair price shop in the premises in dispute, which is a Kovil Mandapam and not a commercial building. The petitioner is having an agreement of lease, dated 12.09.1980 executed by the first respondent herein. While the first respondent has increased the rent by his own unilateral decision, which is also applicable to the commercial building for the open Mandapam. As the revised fair rent was not paid, eviction proceedings under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, were initiated. M.P.No.76 of 2016 was also filed by the second respondent/Joint Commissioner, HR&CE, for recovery of possession and directing the petitioner to pay the arrears of enhanced rent to the first respondent and other reliefs. In the mean time, the petitioner has filed I.A.No.1 of 2018 to reopen the case and consider the documents filed by him. In the said I.A., an order was passed on 28.05.2019, directing the petitioner to pay 50% of the arrears ie., Rs.3,50,000/-, without prejudice to the case. The said order is now under challenge.

4. The learned counsel appearing for the petitioner submitted that after passing of the impugned order, the petitioner has deposited a sum of Rs.1,00,000/-, on 01.07.2019.

5. Therefore, this Court is of the view that as already there was a remittance by the petitioner and the application is filed only for reopening and rehearing in I.A, no condition needs to be imposed. Therefore, the impugned order dated 28.05.2019 passed by the second respondent is set aside and the Joint Commissioner, HR&CE, Tirunelveli, is directed to take up M.P.No.76 of 2016 and issue notice to both the parties and hear them on merits, after affording an opportunity of personal hearing and pass appropriate orders and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

6. With the above observation, this Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Ns

To:

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



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

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Tirunelveli.

+1 CC to M/s.S.MANO HAR, Advocate (SR-104942[F] dated 13/12/2019)
+1 CC to M/s.SPL GP (SR-105069[F] dated 16/12/2019)

W.P (MD) No.26542 of 2019
and W.M.P. (MD) .No.22919 of 2019

SMA/21/01/2020/3P/6C