

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2020

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.404 of 2020 and W.M.P.No.463 of 2020

D.Sekar

...Petitioner

Vs.

1. The Commissioner,
Hindu Religious & Charitable
Endowment Department,
Uthamar Gandhi Salai,
Chennai 600034.

2. The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
Chennai 600 034.

3. The Joint Commissioner/
Executive Officer,
Arulmighu Kabaleeswarar Temple,
Mylapore, Chennai 600 004.

4. Trustee / Fit Person,
Arulmighu Kabaleeshwarar Temple,
Mylapore, Chennai 600 004.

..Respondents

Prayer:- Writ petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the impugned notice in Na.Ka.No.143/2019/A4 dated 21.12.2019, on the file of the 3rd respondent herein, calling upon the petitioner to vacate the house at No.22, V.N.Nagar, Vaithiyar Annamalai Street, Mylapore, Chennai 600 004.

For Petitioner
For Respondents

: Mrs.G.Sumitra
: Mr.M.Karthikeyan
Special Government Pleader
for R1 to R4.

O R D E R

By consent this writ petition is taken up for final disposal.

2. This writ petition has been filed challenging the impugned notice issued by the 3rd respondent calling upon the petitioner to vacate the premises and hand over the same to the Hindu Religious and Charitable Endowment Department.

3. The case of the petitioner is that he was employed as a Driver in the 4th respondent temple and he was issued with the charge memo. The petitioner gave his reply and enquiry was conducted and ultimately, the petitioner was dismissed from service by an order dated 16.02.2019. Aggrieved by the same, the petitioner has filed an Appeal before the 2nd respondent and the same is pending. In the meantime, the 3rd respondent has issued a notice to the petitioner to vacate and hand over the premises that was allotted to him, while he was in service. Challenging the same, the present writ petition has been filed before this Court.

4. The learned counsel appearing for the petitioner submitted that the premises from where the petitioner has been directed to vacate is not a servant quarters and it only belongs to the temple and therefore, the 3rd respondent has no right to issue such a notice. The learned counsel further submitted that the petitioner and his family are residing in the premises from the year 1995 onwards and they have been given only 15 days time to vacate the premise. The learned counsel submitted that the 3rd respondent has been acting with a malafide intention against the petitioner and it is only the 3rd respondent, who had earlier passed the dismissal order as against which the petitioner has filed an appeal.

5. Per contra, learned counsel appearing for the respondents submitted that the petitioner has been dismissed from service and therefore, he is not entitled to continue to reside in the premises that belongs to the 4th respondent temple. The learned counsel submitted that the mere pendency of the Appeal is not a ground to permit the petitioner to continue to be in possession of the property.

6. This Court has carefully considered the submissions made on either side and also perused the materials available on record.

7. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

8. This Court does not find any ground to interfere with the notice that has been issued by the 3rd respondent. The petitioner has been dismissed from service and admittedly, the premises belongs to the 4th respondent temple. The petitioner does not have any legal right to continue to reside in the property belonging to the 4th respondent temple. The 3rd respondent has all the authority to issue such a notice, since the petitioner ceases to be an employee of the HR&CE Department. Merely because an Appeal has been filed that does not mean that the petitioner can continue to reside in the premises belonging to the 4th respondent temple.

9. This Court however taking into consideration the fact that the petitioner has been living in the premises from the year 1995 onwards, is inclined to grant three months time to the petitioner to vacate and hand over the premises to the 3rd respondent. In the meantime, the petitioner will have to look for an alternative accommodation. It is made clear that if the petitioner does not hand over the premises within the period of three months from today, it is left open to the 3rd respondent to take possession of the property.

10. This writ petition is dismissed with the above directions. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy//

Sub Assistant Registrar

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To

1. The Commissioner,
Hindu Religious & Charitable
Endowment Department,
Uthamar Gandhi Salai,
Chennai 600034.

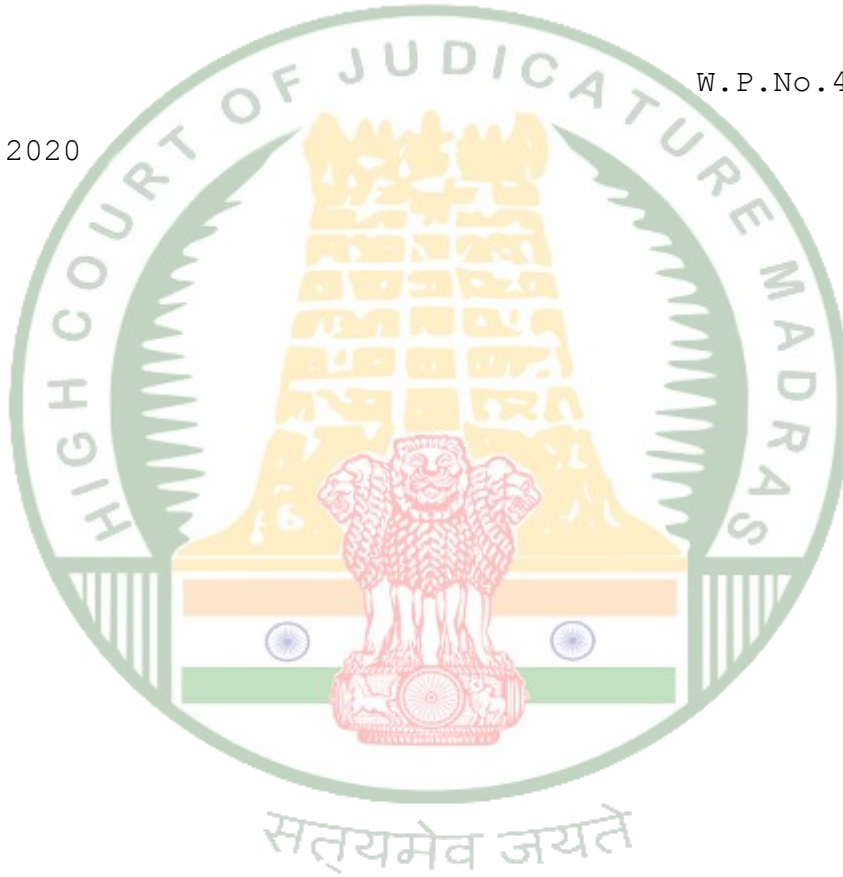
2. The Joint Commissioner,
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Arulmighu Kabaleeshwarar Temple,
Mylapore, Chennai 600 004.

+lcc to Ms.G.Sumithra, Advocate, SR.No.2141.
+lcc to Government Pleader, SR.No.2929.

MR(CO)
CSR:12.02.2020

W.P.No.404 of 2020



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