

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.12.2020

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. Nos.15755 & 15756 of 2020

R.Devaraj ...Petitioner in WP.15755 of 2020
M.Palani @ Babu ...Petitioner in WP.15756 of 2020

Vs

- 1 The Commissioner
HR and CE Board Nungambakkam High Road
Chennai
 - 2 Joint Commissioner
HR and CE Board Villupuram
 - 3 Assistant Commissioner
HR and CE Board Thiruvoodal Street
Tiruvannamalai
 - 4 The Executive Officer
A/m.Kamatchi Amman Temple
Tiruvannamalai
- ...Respondents in both WPs

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to Writ of Certiorarified Mandamus to call for the records relating to the eviction/ termination notices dated 14.08.2020 and 16.09.2020 issued by the 4th respondent herein and quash the same as illegal and further order the respondents herein to permit the petitioner to continue as a tenant under the 4th respondent.

(In both WPs)

For Petitioner : Mr.V.Prakash Babu
For Respondents : Mr.R.Venkatesh (for R1 to R3)
Government Advocate
Mr.R.Bharanidharan (for R4)

COMMON ORDER

Heard Mr.V.Prakash Babu, learned counsel for the petitioner, Mr.R.Venkatesh, learned Government Advocate for respondents 1 to 3 and Mr.R.Bharanidharan, learned counsel for R4.

2. The petitioners are admittedly encroachers in the premises at Door Nos.111A and 112A belonging to the Kamatchi Amman Temple at Tiruvannamalai (Temple).

3. An order was passed by me on 09.12.2020 to the following effect:

'Mr.R.Venkatesh, learned Government Advocate accepts notice for R1 to R3 and Mr.R.Bharanidharan, learned counsel undertakes to file vakalat for R4.

2. The following are admitted facts:

(i) The premises in question situated at 111A and 112A Kamatchi Amman Kovil Street, Thiruvannamalai Town and District belongs to the Kamatchi Amman Temple.

(ii) Admittedly the petitioners are in occupation of the premises in question since 1984 in utter violation of the provisions of Section 34 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, since no lease deed has been executed by the officials of the HR&CE Department/Executive Officer.

(iii) The occupation of the premises by the petitioners is thus contrary to law, though with the active connivance of the officials of the HR & CE Department and the Executive Officer of the Temple.

3. The premises in question is said to be dilapidated and poses a risk for continued occupation. The petitioners shall thus identify an alternate premises for their businesses, vacate the premises in question and handover the same positively within a period of four (4) weeks from today.

4. This direction is issued bearing in mind the safety and security of the petitioners as well as others that would visit the premises, being commercial establishments.

5. Once the reconstruction of the premises is complete notwithstanding that the petitioners are trespassers therein as on date bearing in mind the fact that they have been in uninterrupted occupation since 1984 and paying the rents regularly as fairly stated by Mr.Bharanidharan, learned counsel for R4

and once the terms of lease are finalized, they shall be extended the right of first option to take on lease the premises.

6. To await a joint memo be filed by both learned counsels i.e. learned counsel for the petitioner as well as Mr. Bharanidharan, learned counsel for R4 within one (1) week from today, list on 16.12.2020.'

4. When the matter is called today, the following joint memos dated 21.12.2020 are filed by the petitioners and R4/the Executive Officer of the Temple. Though the premises at Door No.112 is not covered by the present writ petitions, memo filed in WP.No.15755 of 2020, based on a letter of the occupant of Door No.112, Kamatchi Amman Koil Street, covers this premises as well. This order thus covers the premises at Door Nos.111A, 112 and 112A, Kamatchi Amman Koil Street, Tiruvannamalai Town.

A. 'Joint memo filed by the counsel for the petitioner and the fourth respondent in WP.No.15755 of 2020

1. The above mentioned writ petition has been filed by the petitioner challenging the communications of the 4th respondent dated 14.8.2020 and 16.9.2020, terminating the lease and calling upon the petitioner to handover vacant possession of the shop premises at Door no.111-A, Kamatchi Amman Koil Street, Tiruvannamalai Town, belonging to the 4th respondent temple on the ground that the building had become dilapidated and has to be reconstructed.
2. It has been agreed that the petitioner would vacate and handover the shop premises in Door no.111-A, Kamatchi Amman Koil Street, Tiruvannamalai Town, within a period of 4 weeks from 9.12.2020 and thereafter, when the 4th respondent temple completes the construction, and lease out the same following the procedure under the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, preference would be given to the petitioner considering the fact that he has been a tenant since 1984 under the temple and has been running the shop for his livelihood.
3. The petitioner has also furnished a letter of undertaking dated 14.12.2020 to the Executive Officer (4th respondent). The other premises in Door no.112, Kamatchi Amman Koil Street, Tiruvannamalai Town was originally leased to K.Arumugam, whose whereabouts are not known after filing petition for insolvency and at present is in occupation of C.Ramkanth, S/o Chinnadurai, who has

been also issued with a notice of eviction dated 16.9.2020 also has addressed a similar undertaking letter dated 14.12.2020 to the Executive officer of the Temple praying for similar relief and accordingly the counsels for the petitioner and the 4th respondent have prayed this Hon'ble Court to record the memo and dispose the writ petition on the above mentioned terms.

For the aforesaid reasons, it is humbly prayed that this Hon'ble Court may be pleased to record the memo and dispose of the W.P.no: 15755 of 2020, pending on the file of this Hon'ble Court and pass such further or other orders as this Hon'ble Court deem fit and proper and thus render justice.'

B. 'Joint memo filed by the counsel for the petitioner and the fourth respondent in WP.No.15756 of 2020

1. The above mentioned writ petition has been filed by the petitioner challenging the communications of the 4th respondent dated 14.8.2020 and 16.9.2020, terminating the lease and calling upon the petitioner to handover vacant possession of the shop premises at Door no.112-A, Kamatchi Amman Koil Street, Tiruvannamalai Town, belonging to the 4th respondent temple on the ground that the building had become dilapidated and has to be reconstructed.
2. It has been agreed that the petitioner would vacate and handover the shop premises in Door no.112-A, Kamatchi Amman Koil Street, Tiruvannamalai Town, within a period of 4 weeks from 9.12.2020 and thereafter, when the 4th respondent temple completes the construction, and lease out the same following the procedure under the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, preference would be given to the petitioner considering the fact that he has been a tenant since 1984 under the temple and has been running the shop for his livelihood.
3. The petitioner has also furnished a letter of undertaking dated 14.12.2020 to the Executive Officer (4th respondent). The other premises in Door no.112, Kamatchi Amman Koil Street, Tiruvannamalai Town was originally leased to K.Arumugam, whose whereabouts are not known after filing petition for insolvency and at present is in occupation of C.Ramkanth, S/o Chinnadurai, who has

been also issued with a notice of eviction dated 16.9.2020 also has addressed a similar undertaking letter dated 14.12.2020 to the Executive officer of the Temple praying for similar relief and accordingly the counsels for the petitioner and the 4th respondent have prayed this Hon'ble Court to record the memo and dispose the writ petition on the above mentioned terms.

For the aforesaid reasons, it is humbly prayed that this Hon'ble Court may be pleased to record the memo and dispose of the W.P.no: 15756 of 2020, pending on the file of this Hon'ble Court and pass such further or other orders as this Hon'ble Court deem fit and proper and thus render justice.'

5. These writ petitions are disposed in light of the aforesaid two memos granting a period of four (4) weeks from today to enable the petitioners as well as the occupant of Door No.112 to vacate the premises and handover vacant possession of the same to R4. R4 is at liberty, after the premises are secured, made ready and fit for occupation, to auction and lease the premises by way of public auction. The petitioners as well as the present occupant at Door No.112 are at liberty to participate in the auction. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

vs/ska

To

- 1 The Commissioner
HR and CE Board Nungambakkam High Road
Chennai
- 2 Joint Commissioner
HR and CE Board Villupuram
- 3 Assistant Commissioner
HR and CE Board Thiruvoodal Street
Tiruvannamalai
- 4 The Executive Officer
A/m.Kamatchi Amman Temple Tiruvannamalai

+1cc to Mr.V.Prakash Babu, Advocate, S.R.No.43165 & 43163

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sra (CO)

rv (03/02/2021)



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