



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:31.01.2020

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

WEB COPY

W.P(MD)No.1841 of 2020

and

W.M.P(MD)No.1556 of 2020

A.K.M.Alla Pitchai

... Petitioner

Vs.

1.The Commissioner,
Hindu Religious & Charitable Endowments
Nungambakkam High Road,
Chennai.

2.The Joint Commissioner,
Hindu Religious & Charitable Endowments,
Sivagangai,
Sivagangai District.

3.The Assistant Commissioner,
Hindu Religious & Charitable Endowments,
Paramakudi,
Ramanathapuram District.

4.The Executive Officer,
Arulmigu Koppudaiyanayaki Amman Temple,
Karaikudi,
Sivagangai District.

... Respondents

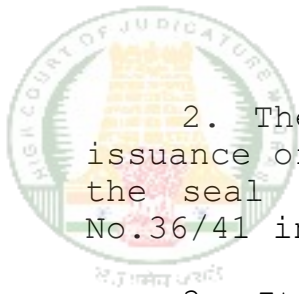
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent No.2 to remove the seal and hand over the possession of the property bearing No.36/41 comprises in Town Survey No.246 Kallukkati South, Karaikudi situate in Ward No.8 Block 3 of Karaikkudi Town, Sivagangai District, illegally sealed by the 3rd and 4th respondents forthwith.

For Petitioner : Mr.M.V.Venkateseshan

For Respondents : Mr.V.R.Shanmuganathan,
Special Government Pleader

O R D E R

Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.



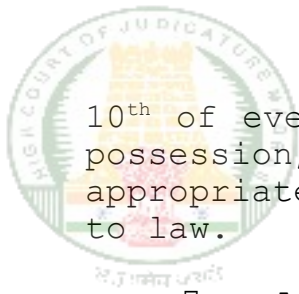
2. The writ petition is filed by the petitioner seeking for issuance of a Writ of Mandamus, directing the respondents to remove the seal and hand over possession of the property bearing Door No.36/41 in Town Survey No.246 of Kallukkati South, Karaikudi Town.

3. It is stated in the affidavit filed in support of this petition that the father of the petitioner was under misconception that the property in dispute was in T.S.No.230 and that the same belonged to the fourth respondent. Admittedly, the petitioner has also been paying the rent after 2010 as demanded by the fourth respondent. It is stated that later, from the records, the petitioner understood that the property measuring 523 ½ sq. ft. comprised in Town Survey No.246 was recorded in his name and that he had ancestral right over the suit property. Thereafter, admittedly, the petitioner stopped paying the rent. The fourth respondent has also initiated proceedings under Sections 78 and 79 of the HR & CE Act. Thereafter, he filed O.S.No.20 of 2014 on the file of the Sub-Court, Devakottai, for declaration of title and for a consequential relief of injunction. Admittedly, interim injunction was not granted in the suit. While so, on 22.01.2020, the third and fourth respondents had sealed the premises bearing Door No.36/41 and also disconnected the electricity service connection. Now, challenging the same, the petitioner is before this Court.

4. The learned standing counsel appearing on behalf of the respondents states that even as early as in the year 1962, the title of the temple was declared in O.S.No.46 of 1960 vide judgment dated 13.08.1962 and there was a registered lease deed dated 29.03.1966 in favour of the father of the petitioner herein namely Minna Nooruddin and these documents could not be disputed by the petitioner.

5. From the available documents, it is very clear that the fourth respondent temple is the owner of the property in dispute and the petitioner is a tenant from the dates of his father. As he had denied the title of the fourth respondent, he was asked to file an affidavit admitting the ownership of the fourth respondent temple. Accordingly, the affidavit dated 30.01.2020 is filed by A.K.M.Alla Pitchai, wherein he has admitted the ownership of the temple and his possession as a tenant and the payment of sum of Rs.6,27,450/- by way of two Demand Drafts bearing D.D.No.858183 and D.D.No.068525 drawn in Indian Bank in favour of the fourth respondent. He had also sworn to the affidavit stating that he will continue to pay the monthly rent of Rs.6,200/- every month from February, 2020 on or before 10th of every succeeding English calendar month without fail.

6. In view of the subsequent admission made by the petitioner that the temple is the owner of the property and that he is only a tenant under the fourth respondent temple from the dates of his father from 1966, as stated earlier, as on date there is no arrears of rent from the petitioner, as the petitioner has already



10th of every succeeding calendar month, he shall continue to be in possession, failing which, the temple will be entitled to take appropriate proceedings against the petitioner in the manner known to law.

7. As the scope of the writ petition is very limited to the extent of only putting back the petitioner in possession, the same is directed to be done as per the above terms. It is open to the authorities to fix suitable conditions as per the Rules.

8. Mrs.Pradeepa, the Executive Officer, namely the fourth respondent temple is also directed to open the seal and put the petitioner back in possession of the premises in dispute on 01.02.2020.

With the above direction, the writ petition is disposed of. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pm

To:

- 1.The Commissioner,
Hindu Religious & Charitable Endowments
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W.P(MD)No.1841 of 2020

+1 CC to Mr.M.VENKATASESAN, Advocate (SR-4366[F] dated 03/02/2020)

Order made in

W.P (MD) No.1841 of 2020

31.01.2020

MK (07.02.2020) 4P 6C