



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.11.2020**

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P(MD).No.16144 of 2020

and

W.M.P. (MD) .Nos.13515 & 13516 of 2020

WEB COPY

K.Prema

.. Petitioner

Vs.

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

.. Respondent

PRAYER: Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the respondent dated 24.08.2019 in proceedings Na.Ka.No.1678/2019/E2-21 quash the same, as the same is arbitrary, ultravires, in violation of principles of natural justice, audi alteram partem and consequentially direct the respondent to demand rent in consonance with G.O.M.S.No.456, Tamil Development, Hindu Religious and Charitable Endowment News dated 09.11.2007 in respect of Shop No.346, Usilai Road, Thirumangalam, Madurai.

For Petitioner : Mr.R.G.Shankar Ganesh

For Respondent : Mr.V.R.Shanmuganathan
Standing Counsel

ORDER

(This Matter was heard through the Video Conferencing)

This Writ Petition has been filed challenging the notice dated 24.08.2019, issued by the respondent, calling upon the petitioner, to pay a sum of Rs.3,29,784/- within a period of fifteen days, failing which, the respondent has cautioned the petitioner that they will initiate proceedings under Sections 78, 79 and 79(c) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, (hereinafter referred to as "the HR & CE Act"), to evict the petitioner from the premises occupied by him.

2. Mr.V.R.Shanmuganathan, learned Standing Counsel accepts notice on behalf of the respondent. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3. Heard Mr.R.G.Shankar Ganesh, learned counsel for the petitioner and Mr.V.R.Shanmuganathan learned Standing counsel for the respondent.



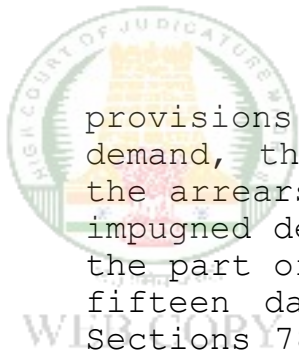
4. Admittedly, as seen from the impugned notice, no proceedings has been initiated against the petitioner till date for eviction under the provisions of the HR & CE Act.

5. The learned counsel appearing for the petitioner would submit that the petitioner undertakes to pay the admitted rent to the respondent. However, it is contended by the learned counsel appearing for the respondent that the petitioner has not paid the rent to the Temple for the past 1 ½ years. He also drew the attention of this Court to the order dated 06.09.2018, passed in W.P.(MD).No.19336 of 2018. According to him, the earlier fixation of fare rent by the respondent was challenged by the petitioner and this Court remanded the matter back to the respondent for fresh consideration and directed the respondent to fix the fare rent after giving adequate opportunity to the petitioner to raise all contentions. It is the contention of the learned counsel appearing for the petitioner that till date, the said order dated 06.09.2018, passed by this Court in W.P.(MD).No.19336 of 2018, has not been complied with, by the respondent.

6. However, the learned counsel appearing for the respondent would submit that the impugned notice is not a final order and it only calls upon the petitioner to pay the arrears of rent, within a period of fifteen days and only on failure to pay the said amount, the respondent will initiate action against the petitioner for eviction as contemplated under Sections 78, 79 and 79(c) of the HR & CE Act. It is also submitted by him that the contentions raised by the petitioner can very well be raised by him before the Joint Commissioner, Hindu Religious and Charitable Endowments Department, as and when, proceedings have been initiated against the petitioner for eviction.

7. This Court, after considering the rival submissions made by the respective counsels, is of the considered view that the present Writ Petition filed by the petitioner is premature as no final orders have been passed against him for eviction. As rightly contented by the learned counsel appearing for the respondent that the impugned notice is only a demand, calling upon the petitioner, to pay the arrears of rent, which according to the respondent is for a sum of Rs.3,29,784/-. It is also the contention of the petitioner that without fixing the fare rent and by not complying with directions of this Court issued on 06.09.2018 in W.P.(MD).No.19336 of 2018, the respondent has issued the impugned demand. It is also the case of the petitioner that he has been paying the rent to the respondent regularly and he is not liable to pay the impugned demand.

8. Admittedly, till date, no proceedings have been initiated against the petitioner for eviction as contemplated under the



provisions of the HR & CE Act. Even as seen from the impugned demand, the respondent has only called upon the petitioner to pay the arrears of rent, within a period of fifteen days and in the said impugned demand, they have made it clear that only on the failure on the part of the petitioner to pay the said amount within a period of fifteen days, they intend to initiate action for eviction under Sections 78, 79 and 79(c) of the HR & CE Act. The contentions that have been raised by the petitioner in this Writ Petition can very well be raised by him in the proceedings that may be initiated against him in the near future under Sections 78, 79 and 79(c) of the HR & CE Act, by the respondent.

9. There is no immediate threat of dispossession to the petitioner as seen from the impugned demand. As indicated earlier, the present Writ Petition is premature as no final orders have been passed by the respondent for eviction.

10. For the foregoing reasons, there is no merit in this Writ Petition as it is premature. Accordingly, the Writ Petition is disposed of. However, it is made clear that the petitioner is at liberty to raise whatever contentions they have raised in this Writ Petition before the Joint Commissioner, Hindu Religious and Charitable Endowments Department, as and when the respondent initiates legal proceedings under the provisions of the HR & CE Act for evicting the petitioner from his premises and the said Authority will have to necessarily consider the objections on merits and in accordance with law. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Tsg

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

**W.P(MD) .No.16144 of 2020
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