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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2021

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THE HONOURABLE MR. JUSTICE R. MAHADEVAN

Writ Petition Nos. 12058, 12059 and 12060 of 2013

K. Sampath	...Petitioner in WP No.12058 of 2013
P. Perumalsamy Chetty	...Petitioner in WP No.12059 of 2013
Ambika	...Petitioner in WP No.12060 of 2013

Versus

1.The Commissioner
Hindu Religious and Charitable Endowments Board
Nungambakkam, Chennai

2.Executive Officer
Arulmighu Sivasubramania Swamy Thirukoil
Kumarasampettai
Dharmapuri Nagar
Dharmapuri District

...Respondents in all the
Writ Petitions

WP No. 12058 of 2013 :- Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus forbearing the respondents, their men, agents, servants, subordinates or anybody acting on their behalf from in any way demolishing/interfering with petitioner's enjoyment of the schedule property viz., Shop No.144/86 D, By pass Road, Kumarasampettai, Dharmapuri District

WP No. 12059 of 2013 :- Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus forbearing the respondents, their men, agents, servants, subordinates or anybody acting on their behalf from in any way demolishing/interfering with petitioner's enjoyment of the schedule property viz., Shop No.107/14, By pass Road, Kumarasampettai, Dharmapuri District

WP No. 12060 of 2013 :- Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus forbearing the respondents, their men, agents, servants, subordinates or anybody acting on their behalf from in any way



demolishing/interfering with petitioner's enjoyment of the schedule property viz., Shop No.36/13, 109/14A, 111A, By-pass Road, Kumarasampettai, Dharmapuri District

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For Petitioners : Mrs. Selvi George
in all the Writ Petitions

For Respondents : Mr. Stalin Abhimanyu
Government Counsel for R1
in all the Writ Petitions

No appearance for R2

COMMON ORDER

These writ petitions are filed by the petitioners, seeking an identical relief, to issue a Writ of Mandamus forbearing the respondents, their men, servants, agents or his subordinates from in any manner demolishing or interfering with the respective properties in occupation of the petitioners.

2. According to the petitioners, they are in occupation of the land belong to the second respondent temple where they are running small shops for more than two decades. They were inducted as tenant in the respective shops for a monthly rent of Rs.75/- per month which was enhanced to Rs.750/- per month. While so, by proceeding dated 19.01.2011, the second respondent sought to revise the rent from the year 2001. Assailing the proceeding dated 19.01.2011, the petitioners in WP Nos. 12058 and 12059 of 2013 have jointly filed WP No. 6116 of 2011 and the petitioner in WP No. 12060 of 2013 has filed WP No. 8246 of 2011. By separate orders dated 10.03.2011 and 30.03.2011, this Court directed the petitioners to treat the proceeding dated 19.01.2011 as a show cause notice and submit their explanation. Even though the petitioners submitted their explanations, as directed by this Court, the second respondent issued a final notice of demand dated 07.07.2011 without considering their explanation. Therefore, the petitioners once again filed WP No. 20890 and 20891 of 2011 before this Court. By a common order dated 12.09.2011, this Court directed the petitioners to treat the order dated 07.07.2011 as a show cause notice and to submit their explanation. Accordingly, the petitioners submitted their explanation to the order dated 07.07.2011. Thereafter, the second respondent has not passed any order, however, the officials of the second respondent threatened the petitioners to demolish the superstructure put up by them. The petitioners, in para No.6 of the affidavits filed in support of the respective writ petition have stated that the shops, which are situated adjacent to their shops, have been demolished by the second respondent. Apprehending similar fate to their shops, the



petitioners have come up with these writ petitions to forbear the respondents from demolishing or interfering with the possession of the respective shops.

3. When the aforesaid writ petitions came up for hearing on 04.06.2013, this Court ordered notice of motion returnable by 02.07.2013 and granted interim injunction till then.

4. Even though the second respondent was served notice on 13.06.2013, none entered appearance for the second respondent.

5. These writ petitions were listed for hearing on 27.07.2021, 03.08.2021 and 05.08.2021. On all these hearings, the learned counsel for the petitioners was present and sought time.

6. Today, when the writ petitions are listed under the caption "for orders" the learned counsel for the petitioners is present. However, the learned counsel for the petitioners submit that she has not received any instructions from the petitioners. Therefore, this Court is inclined to pass orders in these writ petitions on merits.

7. It is evident that these writ petitions are pending since 2013. As mentioned above, even in the affidavits filed in support of the writ petitions, the petitioners contended that the superstructures, which are lying adjacent to their shops, have been pulled down by the second respondent. It is not known as to whether the petitioners superstructure have been pulled down, whether the petitioners are still continuing their business in the premises in question, whether the petitioners have paid the rent, as demanded by the respondents etc., The fact remains that the second respondent issued notices enhancing the rent for the premises in occupation by the petitioners. The petitioners unsuccessfully assailed the notices issued by the second respondent before this Court by filing writ petitions. This Court has not interfered with those notices but only directed the petitioners to submit their explanation to the notices. Taking note of the above facts and the submission of the learned counsel for the petitioners that she has not received any instruction from the petitioners, this Court is of the view that at this length of time, the relief sought for by the petitioners cannot be granted. It is open to the respondents to take necessary action against the petitioners to collect the arrears of rent, if any, payable by them or to evict them from the lands in question, if they continue to occupy the shops unauthorisedly.



Accordingly, all the writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar (CS-VII)

// True Copy //

Sub Assistant Registrar

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To

1.The Commissioner
Hindu Religious and Charitable Endowments Board
Nungambakkam, Chennai

2.Executive Officer
Arulmighu Sivasubramania Swamy Thirukoil
Kumarasampettai
Dharmapuri Nagar
Dharmapuri District

+1cc to the Government Pleader SR.No.40401

+1cc to the Special Government Pleader (HR & CE) SR.No.40563

WP Nos.12058, 12059
and 12060 of 2013

PA(CO)
RVM(06/10/2021)