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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21-10-2021

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.12245 of 2011

And

MP No.1 of 2011

And

WMP No.18451 of 2019

P.Nagarajan

...Petitioner

vs.

1. The Executive Officer,
Arulmighu Sivasubramaniya Swamy Thirukoil,
Kumarasampettai,
Dharmapuri Nagar - 636 703.
2. The Joint Commissioner,
Hindu Religious and Charitable Endowments
Department,
Salem - 636 001.
3. The Commissioner,
Hindu Religious and Charitable Endowments
Department,
Chennai - 600 034.

...Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records culminated in the Impugned Order dated 29.04.2011 on the file of the first respondent and quash the same, consequently forbear the respondents from terminating the Lease and evicting the petitioner or taking any action or dispossession in pursuance of the Impugned Order dated 29.04.2011 on the file of the first respondent.

For Petitioner	: Mr.S.R.Sundaram
For Respondent-1	: Mr.V.R.Annagandhi
For Respondents-2 and 3	: Mr.N.R.R.Arun Natarajan, Government Advocate.

O R D E R

The Final Notice issued by the Executive Officer of Arulmighu Sivasubramaniya Swamy Thirukoil-first respondent in proceedings dated 29.04.2011, is under challenge in the present writ petition.



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2. The Final Notice states that the petitioner encroached the property belongs to the temple. Further, the petitioner has sublet the temple premises without obtaining proper permission from the Competent Authorities. Thus, the first respondent issued a Final Notice stating that the petitioner has violated the lease conditions and accordingly the lease was cancelled and further actions will be initiated under the provisions of the Hindu Religious and Charitable Endowments Act, 1959 [hereinafter referred to as the 'Act', in short].

3. The petitioner states that the temple property was leased out long back. As per Section 34 of the Act, the lease cannot be extended beyond the period of five years without the approval of the Commissioner, Hindu Religious and Charitable Endowments Department.

4. In view of the fact that the petitioner has violated the lease conditions by not paying the lease amount and further sublet the temple premises without the permission of the Competent Authorities, actions may be initiated for eviction and notice was issued. The lease was also cancelled.

5. The writ petition was filed in the year 2011, challenging the notice. It is brought to the notice of this Court that subsequently actions were initiated under Section 78 of the Act and final order also has been passed. The petitioner was treated as an encroacher for all purposes, as he is not holding any valid lease in respect of the temple property.

6. This being the factum now established, the petitioner has not proved any right for the purpose of considering the relief. Further actions under Section 78 of the Act, had already been initiated and completed. Thus, the respondents are at liberty to evict the petitioner in the manner known to law, as the petitioner has no right to continue in the property belongs to the temple.

7. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also dismissed.

s/d-
Assistant Registrar(CS V)

True Copy

Sub-Assistant Registrar



Svn
To

1. The Executive Officer,
Arulmighu Sivasubramaniya Swamy Thirukoil,
Kumarasamypettai,
Dharmapuri Nagar - 636 703.
2. The Joint Commissioner,
Hindu Religious and Charitable Endowments
Department,
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+1 CC to Mr.V.R.Annagandhi, Advocate sr 54157.

W.P.12245 of 2011

MG(CO)
SP(09/11/2021)