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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2021

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.14456 of 2016

and

WMP. No.12634 of 2016

R.Raja

.. Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Secretary to Government,
Hindu Religious and Charitable Endowment Department,
Fort St.George, Chennai - 600 009.
2. The Commissioner,
Hindu Religious and Charitable Endowment Department,
Nungambakkam, Chennai.
3. The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Nungambakkam, Chennai.
4. The Executive Officer,
Arulmigu Sengaluneer Pilliyar Thirukkoil,
No.131, Sengaluneer Pilliyar Koil Street,
Chennai - 600 001.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Certiorarified Mandamus, to call for the proceedings of the 4th respondent in his orders dated 05.11.2003 and 10.06.2013 and quash the same and direct the Respondents to refix rental in accordance with law.

For Petitioner : Mr.Kamaraj,
for Mr.M.Kamalanathan

For Respondents: Mr.NRR.Arun Natarajan
Government Advocate for R1 to R3
Mr.D.R.Sivakumar for R4



O R D E R

Heard Mr.Kamaraj, learned counsel for Mr.M.Kamalanathan, learned counsel for the petitioner on record, Mr.NRR.Arun Natarajan, learned Government Advocate for the State/R1, the Commissioner and Joint Commissioner, Hindu Religious and Charitable Endowments Department /R2 & R3 and Mr.D.R.Sivakumar, learned counsel for R4/ the Executive Officer of the Arulmigu Sengaluneer Pilliyar Thirukkoil, (temple/temple in question).

2. The petitioner was the tenant of one Mr.M.R.Krishnamoorthy, who is stated to be an original tenant of the temple from the year 1965 in the property at No.131, Sengaluneer Pilliyar Koil Street, Chennai - 600 001 (property/property in question) consisting of a tiled and terrace portion, each admeasuring around 300 sq.ft.,

3.No lease deed or extension thereof has been produced before me and in fact, it is not the petitioner's case that there has ever been a valid lease or arrangement as contemplated under Section 34 of the Hindu Religious and Charitable Endowments Act, 1959 (in short 'Act'), that had been entered into by the petitioner with the Temple.

4. The petitioner claims to have entered into a Deed of Partnership with the lessor by virtue of which, he claims to have become a direct tenant under the temple. The occupation of the premises in question by the petitioner is thus not legitimized by any document or procedure as contemplated under Section 34 of the Act.

5. Counters have been filed by R2 as well as R4, wherein they have stated that there is no legal basis or any justification whatsoever for continued occupation of the premises by the petitioner. Since the petitioner was in arrears of rent, proceedings were initiated in terms of Sections 78 and 79 of the Act to treat the petitioner as an encroacher and, after hearing the petitioner, the impugned order dated 10.06.2013 have come to be passed calling upon the petitioner to remit rental arrears computed (as on the date of filing of writ petition) at an amount of Rs.7.96 lakhs (approx). As on date, the arrears is stated to be of an amount of Rs.15.56 lakhs (approx).

6. The challenge to demand notices dated 05.11.2003 and 10.06.2013 do not survive, in view of the fact that notices under Section 78 of the Act, have been issued to the petitioner on 22.07.2013 terminating the lease of the property in question



and calling upon the petitioner to hand over vacant possession of the property.

7. Though an order of interim stay has been obtained by the petitioner on 28.04.2016, the stay was conditional upon the petitioner remitting 25% of the amount demanded under the impugned order within a period of eight (8) weeks from date of order, failing which, the interim order was to stand vacated automatically, without any further reference to the Court. Learned counsel appearing for the temple would state that the petitioner has not complied with the order.

8. In the above circumstances, I am at a loss to appreciate why the temple has allowed the matter to lie over for eight years without disturbing the status quo. This writ petition has no legs to stand, in the light of the discussion as aforesaid.

9. Let the proceedings initiated under Section 78 be pursued and an order passed within a period of twelve (12) weeks from today after hearing the petitioner. This writ petition is dismissed. Connected Miscellaneous Petition is closed. No costs.

10. List this matter for compliance on 05.10.2021.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

rkp

To

1. State of Tamil Nadu,
Represented by its Secretary to Government,
Hindu Religious and Charitable Endowment Department,
Fort St.George, Chennai - 600 009.
2. The Commissioner,
Hindu Religious and Charitable Endowment Department,
Nungambakkam, Chennai.
3. The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Nungambakkam, Chennai.



4. The Executive Officer,
Arulmigu Sengaluneer Pilliyar Thirukkoil,
No.131, Sengaluneer Pilliyar Koil Street,
Chennai - 600 001.

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+1cc to M/s.S.D.Ramalingam , Advocate, S.R.No.32841

+1cc to Mr.M.Kamalanathan , Advocate, S.R.No.33225

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and
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SRA (CO)
SU (09/09/2021)