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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2021

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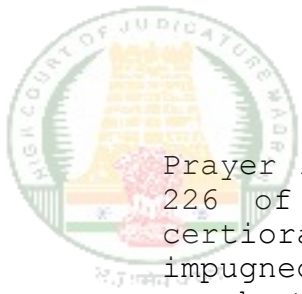
THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.6341 of 2018 & 28365 of 2015
and
WMP. No.1 of 2015 & 7893 of 2018

M/s.Jaya Agency Firm,
A partnership firm rep.by its Managing Partner
K.R.Jaya Sundar M.Raj,
No.13/1,Peddu Naicken Street,
Park Town, Chennai-600003 ...Petitioner in both WPs
Vs.

- 1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Uthamar Gandhi Salai,
Nungambakkam Chennai-600034
- 2.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Uthamar Gandhi Salai,
Nungambakkam Chennai-600034 ...R1 and R2 in both WPs
- 3.The Fit Person/Assistant Commissioner,
Sree Muthukumarsamy Devasthanam
Ayya Chary Vyapuri Chetty Charities,
13/1, Peddu Naicken Street, Park Town,
Chennai-600003
- 4.The Executive Officer,
Sree Muthukumarsamy Devasthanam
No.44, Rasappa Chetty Street, Chennai-600003
...R3 and R4 in WP.No.6341 of 2018
- 5.The Fit Person/Assistant Commissioner,
Sree Muthukumarsamy Devasthanam
Ayya Chary Vyapuri Chetty Charities,
No.44, Rasappa Street, Park Town
Chennai-600003 ...R3 in WP.No.28365 of 2015

Prayer in WP.No.6341 of 2018: Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of certiorari, calling for the records relating to the proceedings of the 4th respondent herein dated 27.02.2018 in respect of the petitioner's shop at no.13, Peddu Naicken Street, Park Town, Chennai-600003 and quash the same.



Prayer in WP.No.28365 of 2015: Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of certiorarified mandamus, calling for the records relating to the impugned order dated 17.08.2015 passed by the 3rd respondent and quash the same and consequently direct the 3rd respondent to dispose the petitioners reply dated 10.08.2015 within a time frame fixed by this Court.

For Petitioner : Mrs.A.L.Ganthimathi

For Respondent : Mr.M.Karthikeyan
Special Government Pleader
for R1 and R2
(both WPs)
Mr.R.Bharanidharan for
R3 & R4 (WP.No.6341 of 2018)
R3 (W.P.No.28365 of 2015)

O R D E R

Heard Mr.A.L.Ganthimathi, learned counsel for the petitioner and Mr.M.Karthikeyan, learned Special Government Pleader for R1 and R2 and Mr.R.Bharanidharan, learned counsel for Sree Muthukumarasamy Devasthanam (in short 'temple').

2. As far as, W.P.No.6341 of 2018 is concerned, it challenges order dated 27.02.2018 quantifying the rental arrears in regard to the petitioner occupation of the property at No.13, Peddu Naicken Street, Chennai-600 003 (property in question) at a sum of Rs.9,22, 456/- and calls upon the petitioner to remit the same within a period of four weeks from the date of receipt of that communication under threat of eviction. It appears that in an earlier writ petition filed i.e. W.P.No.28365 of 2015, a conditional order was passed on 09.09.2015, directing the petitioner to remit a sum of Rs.10,00,000/-. The petitioner had remitted a sum of Rs.8,00,000/- after deduction of tax at source and the order of the Court stands complied with. In the light of order in W.P.No.28365 of 2015, and recording compliance thereof, W.P.No.6341 of 2018 is closed.

3. As far as W.P.No.28365 of 2015 is concerned, it challenges a communication dated 17.08.2015. However, Mr.R.Bharanidharan, learned counsel would point out and rightly so, that the communication is only a notice calling upon the petitioner to show cause why proceedings under Section 78 not be initiated. In such an event, the writ petition is premature insofar as it is for the petitioner to have put forth its reply to the proposal contained in the impugned notice.



4. Let a reply be filed before the Joint Commissioner, HR&CE, Chennai Division within three weeks from today treating the impugned communication as a notice under Section 78 of the Act. Upon receipt of the reply, all contentions being left upon to be addressed by the petitioner, the petitioner shall be heard and an order passed within six weeks from date of receipt of the reply. Since the petitioner has been enjoying an interim order of protection in regard to her enjoyment and occupation of the property in question from the date of inception of the writ petition, the same will continue till completion of the proceedings, as above.

5. The Joint Commissioner, HR&CE Chennai Division is not arrayed as a respondent and the aforesaid directions shall be communicated along with copy of this order by Mr.Bharanidharan.

6. W.P.No.28365 of 2015 is disposed as above. Connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Uthamar Gandhi Salai,
Nungambakkam Chennai-600034.
- 2.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Uthamar Gandhi Salai,
Nungambakkam Chennai-600034 .
- 3.The Fit Person/Assistant Commissioner,
Sree Muthukumarsamy Devasthanam
Ayya Chary Vyapuri Chetty Charities,
13/1, Peddu Naicken Street, Park Town,
Chennai-600003.



4.The Executive Officer,
Sree Muthukumarsamy Devasthanam
No.44, Rasappa Chetty Street, Chennai-600003.

5.The Fit Person/Assistant Commissioner,
Sree Muthukumarsamy Devasthanam
Ayya Chary Vyapuri Chetty Charities,
No.44, Rasappa Street, Park Town
Chennai-600003.

6.The Joint Commissioner,
HR & CE,
Chennai.

+1cc to Mrs.A.L.Ganthimathi, Advocate Sr.24504
+1cc to the Government Pleader Sr.25060 and 25056

W.P. No6341 of 2018 and 28365 of 2015
and
WMP. No.1 of 2015 & 7893 of 2018

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srg 22/07/2021