



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2021

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THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.NO.20675 OF 2016

AND

W.M.P.NO.17758 OF 2016

1. S.Babu Lakshman
2. S.Gowri Kumarasundaram

... Petitioners

.Vs.

1. The Principal Secretary to Government,
Tourism, Culture & Religious Endowment
Department, Secretariat,
Chennai - 600 009.
2. The Commissioner,
HR & CE Department,
Nungambakkam,
Chennai - 600 034.
3. The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
119, Mahatma Gandhi Road,
Nungambakkam,
Chennai - 600 034.
4. The Executive Officer,
Arulmigu Sowmiya Damodara
Perumal Thirukoil,
Villivakkam,
Chennai - 600 049.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus to call for records in the impugned proceedings in Na.Ka.No.14062/2015, R2. Dated 27.05.2016 issued by the second Respondent quash the same and direct the Respondents to effect to the name change in favour of the petiitoners on the records of the fourth respondent.



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For Petitioner : Mr.P.H.Arvind Pandian
Senior Counsel
For Mr.S.Namasivayam

For Respondent : Mr.NRR.Arun Natarajan
Government Advocate
For R1 to R3

Mrs.Rita Chandrasekar
For R4

O R D E R

The petitioners have filed this writ petition challenging order dated 27.05.2016 passed by the Commissioner, Hindu Religious and Charitable Endowments Department (HR & CE)/R2 and consequently directing the respondents to effect the name change of the lease hold rights of the property at Survey No.348/2 situated at Vasanth Bangalow Area, Ramamandiram Street, Villivakkam, Chennai 600 049 admeasuring 9894 Sq.ft (Property in question) admittedly, belonging to the Arulmigu Sowmiya Damodara Perumal Thirukoil, Villivakkam (Temple/Temple in question).

2. In short, the petitioners' case is that they are tenants of the property in question, admittedly, in possession of the property from 1994. According to them, they had constructed super structure upon the property in question and by a sale deed dated 21.01.1994 registered as document Nos.304 & 305 of 1994, the super structure was transferred in favour of the petitioners.

3. The stand of the official respondents, is that the petitioners are encroachers. They would contend that the petitioners are in substantial arrears of rent and as such on 16.04.2012, they were called for an enquiry in regard to their possession and occupation of the property in question and the payment of all statutory dues and rentals to the temple. The proceedings culminated in order dated 31.10.2012, holding the petitioners to be encroachers and directing to handover vacant possession.

4. This order was set aside in Revision in R.P. No.57/2012 D2 dated 28.02.2013 by R2, who directed the petitioners to remit the entire arrears within 10 days from the date of that order. According to the petitioners, they have complied with the same and they are also been paying the monthly rent without default thereafter.



5. While this is so, there was a notification in the Dina Thanthi on 11.11.2014 calling for applications for name change. The petitioners sought inclusion of their names in regard to the property in question. On 16.03.2015, G.O. Ms. No.88 came to be issued by the Principal Secretary to Government, Tourism, Culture and Religious Endowments Department directing the consideration of the petitioner's application in proper light and in line with the same parameters as applied in the case of other applicants.

6. The temple sought the acceptance by the petitioners of various terms and conditions, to which also, the petitioners are stated to have consented. While this is so, the second respondent has rejected the application of the petitioners by way of the impugned order dated 27.05.2016, stating that the land in question was required by the temple for setting up of staff quarters leading to the filing of the present writ petition.

7. After a detailed hearing of the matter, this Court had expressed the view that, as the impugned order is dated 27.05.2016, as per the provisions of Section 34 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (in short 'Act'), a lease or other valid arrangement for occupation of temple property could only span a period of five years. As such, as on the date of hearing of this writ petition, the period of five years, as stipulated under Section 34 of the Act, had come to an end. Thus and since Section 34 of the Act, mandates specific extension of an arrangement of lease every five years, it was suggested that the petitioners approach the respondents with a request for continuation of the arrangement in any form that the petitioner may suggest, and that the respondents may find acceptable.

8. Acceding to the above suggestion, the petitioners have, vide affidavit dated 12.08.2021, requested permission to withdraw the writ petition with liberty to make a fresh representation to be considered de novo and on priority basis, to be treated as valid lease holders as provided under Section 34 of the Act for the extent of area excluding the area earmarked for the construction of the staff quarters.

9. Accordingly, this writ petition is dismissed as withdrawn, granting the petitioners liberty, as prayed for and as set forth aforesaid. Representation, if any, to be filed by the petitioners within a period of four (4) weeks from today and shall be disposed by the respondents within a period of eight (8) weeks from receipt thereof, after hearing the petitioners and in accordance with law. The possession of the premises in question by the petitioners shall not be disturbed by the



respondents till such time the aforesaid exercise is completed within the time frame as stipulated. It is made clear that extension of lease, if granted must be compliant with all statutory provisions and applicable Rules and Regulations. Connected Miscellaneous Petition is also closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rkp

To

1. The Principal Secretary to Government,
Tourism, Culture & Religious Endowment
Department, Secretariat,
Chennai - 600 009.
2. The Commissioner,
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Chennai - 600 034.
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CP(CO)
PBS/25/10/2021