



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:07.06.2021

Coram

The Honourable Mr. Justice V.PARTHIBAN

W.P.No.12077 of 2021

and

WMP NoS.12852 & 12853 of 2021

L.Lakshmanan

... Petitioner

Vs.

1. The Joint Commissioner,
The Tamil Nadu Hindu Religious & Charitable Endowments,
Balasundaram Road,
Coimbatore - 641 018.
2. The Assistant Commissioner,
The Tamil Nadu Hindu & Religious & Charitable Endowments,
Jawan Bhavan, Gandhiji Road,
Erode - 638 001.
3. The Executive Engineer,
Arulmigu Sellandi Amman Temple,
Savandapur,
Gobichettipalayam Taluk,
Erode District.

....Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorified Mandamus to call for the records pertaining to the lease termination notice issued by the 3rd respondent dated 08.02.2016 disobeying the Hon'ble High Court order in the admission stage of Second Appeal No.1289 of 2014 and to quash the same as illegal, incompetent and ultravires and consequently direct the respondents to render the pending lease amount details and collect the same for the lease HR & CE property in Survey No.100/1, Mevani Village, Gobichettipalayam Taluk measuring about 1.76 acres attached to Savandapur Sellandi Amman Temple.

For Petitioner

.. Mr.A.Manoj Kumar

For Respondents

.. Mr.K.V.Sanjeev Kumar
Spl.Govt.Pleader



O R D E R

The matter is taken up through web hearing.

2. The case of the petitioner is that he is the cultivating tenant for more than 40 years in the property belonging to HR & CE Department. In 2010, a termination of lease notice was given to the petitioner land. According to him, no opportunity was given to him to explain and subsequently, an auction was conducted for the property. The termination was issued on the ground that the petitioner had illegally removed sand from the property. In the auction conducted, one third party, by name Thangan, was inducted as a lessee. The petitioner herein filed a suit for permanent injunction in O.S.No.174/2010 before the District Munsif Court, Gobichettipalayam restraining the lessee of the Department from interfering with the peaceful possession and enjoyment of the suit property by the plaintiff/petitioner.

3. Before the trial Court, the then Executive Officer of the 3rd respondent Temple filed a compromise memo stating that they had no objection for decreeing the suit as prayed for by the petitioner herein. A decree was passed on the basis of the compromise memo on 01.07.2013 in O.S.No.174/2010.

4. While the matter stood thus, subsequently, the temple authority resiled their stand and filed A.S.No.5 of 2013 before the Subordinate Judge, Gobichettipalayam, against the compromise decree of the trial Court. However, the said Appeal was dismissed by confirming the decree of the trial Court. As against which, Second Appeal in S.A.No.1289/2014 was filed before this Court. This Court, dismissed the Second Appeal on 09.01.2015. In the penultimate paragraph of the judgment in Second Appeal, this Court has held as follows:

10. In my considered opinion, the Courts below have rightly come to the conclusion that the plaintiff is the cultivating tenant and his possession is lawful and the same should not be disturbed by these defendants. Thus, I do not find any substantial question of law involve in this second appeal warranting admission of the same. At the same time, I should clarify that if really, the temple authorities have got any ground to terminate the lease agreement of the plaintiff, they can very well do so after following the procedure prescribed under section 34 B of the Act and then proceed in accordance with law.

5. Thereafter, the respondent issued another notice dated 08.02.2016 terminating the lease granted in favour of the petitioner and the said notice is the subject matter of challenge in this writ petition. According to the petitioner, he



has filed E.P.No.25/2016 against the 1st respondent for not implementing the trial Court injunction order and when the evidence has been taken recently, the Executive Officer representing the respondent deposed that notice of termination has already been issued on 08.02.2016. Hence, the petitioner is constrained to challenge the notice in the present writ petition.

6. According to the learned counsel who appeared for the petitioner, the termination notice dated 08.02.2016 is contrary to the judgment and decree passed by the Trial Court and confirmed in Second Appeal by this Court and therefore, the same has to be quashed. According to the learned counsel, when permanent injunction has been granted in favour of the petitioner restraining the defendants from dispossessing and causing interference with the peaceful enjoyment of the property, the impugned notice amounts to Contempt of Court. Learned counsel would also submit that the 3rd respondent, by issuing termination notice dated 08.02.2016, is attempting to set aside the Civil Court decree as confirmed by this Hon'ble Court in S.A.No.1289/2014 dated 09.01.2015.

7. This Court considered the submission of the learned counsel but is not inclined to entertain the writ petition on the grounds raised in the writ petition.

8. According to the learned counsel, the impugned notice is contrary to the judgment of this Court in Second Appeal which factually is not correct. In fact, as could be seen in the extracted portion of the observation of this Court in the Second Appeal, it has been clearly observed that the authority can very well take action for terminating the lease by following the procedure prescribed under the provisions of H.R & C.E. Act. Taking cue from such observation, the notice was issued subsequently, on 08.02.2016 by the authority concerned. Therefore, this Court does not find any infirmity in the notice issued to the petitioner. What is more strange is that the petitioner who had been issued with the notice as early as in February, 2016, has not questioned the same for more than 5 years without any valid reasons. The only reason that is mentioned in the affidavit is that recently E.P. filed against the Department, the Department representative has given some evidence regarding the termination notice by misleading the EP Court, which explanation is hardly convincing for this Court to condone the laches. The grounds raised in the affidavit hardly merit any serious consideration for accepting the challenge. The petitioner ought to have responded to the impugned notice by raising whatever legal or factual objections and merely because there is a decree of the Civil Court in respect of the earlier cause of action in 2010 such injunction cannot permanently bind



the department from initiating fresh action on the basis of different set of facts and circumstances.

9. In any event, the petitioner ought to have responded to the notice promptly but he cannot be allowed to leisurely challenge the notice dated 8.2.2016 in 2021 after a period of 5 years. The explanation sought to be given in the affidavit does not carry any conviction with this Court. This Court is therefore of the considered view that the writ petition is hit by laches and therefore, it has to be rejected as not maintainable. However, this Court would clarify that it is open to the petitioner to give his objections to the notice, if any dispute subsists as between the parties.

10. With the above observation, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

vsi

To

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SS(CO)
CB(22/07/2021)