



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.15414 of 2021
and W.M.P.No.16370 of 2021

K.Srikandan

...Petitioner

Vs

1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai 600 034.

2.The Joint Commissioner
Hindu Religious and Charitable Endowments Department,
Kancheepuram.

3.The Assistant Commissioner
Hindu Religious and Charitable Endowments Department,
Collectorate, Kancheepuram 631 501.

4.The Executive Officer,
Arulmighu Ekambaranathar Thirukoil,
Hindu Religious and Charitable Endowments Department,
Kancheepuram 631 502.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Consitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the 2nd respondent made in Misc. Petition No.5 of 2021 dated 12.07.2021 and quash the same and consequently, direct the 2nd respondent to regularize the tenancy in favour of the petitioner by effecting name change in his favour for the shop measuring an extent of 1399 Sq.ft at No.777 (Survey No.229, part), Poonamallee High Road, Kilpauk, Chennai 600 010, which was in consideration from the year 2000 onwards in accordance with rules/proceedings of the 1st respondent.

For Petitioner : Mr.J.Puratchidhasan

For Respondents : Mr.N.R.R.Arun Natarajan (For R1 to R3)
Government Advocate

Mr.R.Bharanidharan (For R4)



O R D E R

The order passed by the Joint Commissioner, H.R. & C.E. department in proceedings dated 12th July, 2021, is under challenge in the present Writ Petition.

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2. The petitioner has stated that the lands in Survey No.229, Door No.777, P.H.Road, Chennai-600 010, measuring an extent of 1399 sq. ft belongs to Arulmighu Ekambaranathar Temple at Kancheepuram. The petitioner claims that he is the President of All India Hindu Maha Sabha and a social worker serving the poor and the needy by providing free tuitions, coaching, free medical aid and help by conducting camps and helping poor people getting the government aid and other social activities having head office at Vadapalani and branch office at 777, Poonamallee High Road, Kilpauk, Chennai 600 010. The petitioner admits that the subject property is owned by Arulmighu Ekambaranathar Temple at Kancheepuram, managed by the Executive Officer of the temple. Originally, one Mr.K.M.Gangadharan was the tenant and paying the taxes and rent to the Executive Officer of the temple. The petitioner has joined with the said late Mr.K.M.Gangadharan and occupied the temple property and was continuing in the said premises. The petitioner claims that he is a social worker and he was paying the rent properly to the temple authorities.

3. The learned counsel appearing for the petitioner states that even without granting breathing time, he was dispossessed from the temple premises by the authorities and therefore, the Writ Petition is to be entertained.

4. The learned Government Counsel appearing for the respondent 1 to 3 objected the said contentions by stating that the petitioner is not an authorised tenant of the temple. He is an encroacher and an illegal occupant. Thus, the petitioner has no right to continue in the temple premises. This apart, the order impugned, passed by the Joint Commissioner of Hindu Religious and Charitable Endowments Department, is an appealable order and the petitioner has not exhausted the appellate remedy as contemplated under the statute. Thus, the Writ Petition is to be rejected.

5. This Court is of the considered opinion that admittedly, the subject property belongs to Arulmighu Ekambaranathar Temple at Kancheepuram and further, the petitioner himself has stated that he is not the original tenant of the Temple property. He occupied the premises from late Mr.K.M.Gangadharan and continued in the said premises. Under these circumstances, the petitioner has not established any right to continue in the said premises and if at all any such right is traceable, the petitioner has to approach the competent authority for the purpose of adjudication



of issues on merits with reference to the documents and evidences available with him as well as with the temple authorities. However, such an adjudication cannot be done by the High Court in a writ proceedings. Prima-facie, on admission of facts, this Court is of an opinion that the petitioner is bound to prefer an appeal even to establish his right in respect of the premises which was in his occupation, before passing the order. However, it is brought to the notice of this Court that the temple authorities had already taken possession of the temple property and this being the factum, the petitioner is not entitled for any relief as such sought for in the present Writ Petition and if at all the petitioner is aggrieved, then he is at liberty to prefer an appeal.

With these observations, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

gsa

To

- 1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
119, Uthamar Gandhi Salai,
Nungambakkam, Chennai 600 034.
- 2.The Joint Commissioner
Hindu Religious and Charitable Endowments Department,
Kancheepuram.
- 3.The Assistant Commissioner
Hindu Religious and Charitable Endowments Department,
Collectorate, Kancheepuram 631 501.
- 4.The Executive Officer,
Arulmighu Ekambaranathar Thirukoil,
Hindu Religious and Charitable Endowments Department,
Kancheepuram 631 502.

+1cc to M/s.J.Puratchidhasan, Advocate, S.R.No.35775

+1cc to the Government Pleader, S.R.No.36688

W.P.No.15414 of 2021

RVM(23/08/2021)