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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08-10-2021

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.20686 of 2021

And

WMP No.21952 of 2021

B.Senthilvelan

... Petitioner

vs.

1.The Commissioner,
Tamil Nadu Hindu Religious and Charitable
Endowment Board,
Nungambakkam,
Chennai - 600 034.

2.The Joint Commissioner,
Tamil Nadu Hindu Religious and Charitable
Endowment Board,
Nungambakkam,
Chennai - 600 034.

3.Executive Officer,
Sri Chenna Malleeswarar,
Sri Chenna Kesavaperumal Devasthanam,
85, Devaraj Mudali Street,
Chennai - 600 003.

4.The Inspector of Police (Law and Order),
Vepery Police Station,
Chennai - 600 007.

5.Vairam

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents 1 to 3 to consider and dispose of the petitioner's representation dated 10.11.2014, 18.11.2014, 25.11.2014 and 05.02.2021 in terms of Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, remove the encroachers to grant lease in favour of the petitioner or to any third party for the premises bearing Door No.77/96, V.V.Koil Street, Choolai, Chennai - 600 112.



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For Petitioner : Ms.R.S.Padmasini
for Mr.K.Sellathurai.

For Respondents-1 to 3 :Mr.N.R.R.Arun Natarajan,
Government Advocate.

For Respondent-4 :Mr.K.M.D.Muhilan,
Government Advocate.

O R D E R

The writ on hand has been instituted, seeking a direction to direct the respondents 1 to 3 to consider and dispose of the representations submitted by the petitioner respectively on 10.11.2014, 18.11.2014, 25.11.2014 and 05.02.2021 in terms of Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, [hereinafter referred to as the 'Act', in short], remove the encroachers to grant lease in favour of the petitioner or to any third party for the premises bearing Door No.77/96, V.V.Koil Street, Choolai, Chennai - 600 112.

2. The petitioner himself states that the encroachers are to be removed. The petitioner states that he is carrying on business at Door No.77/96, V.V.Koil Street, Choolai, Chennai-112.

3. The petitioner claims to be a tenant under one Smt.Komalammal, who was a Lessee in respect of the subject property belongs to the temple. The whereabouts of Smt.Komalammal is not known and the petitioner and the fifth respondent are claiming right in respect of the temple property.

4. Admittedly, the subject property is a temple property and there is no dispute between the parties in this regard. The petitioner himself states that there is an encroachment and his representation in respect of such encroachment is to be considered and it must be given on lease and he is not running any business in the said premises. To that extent, the petitioner has fairly conceded the facts.

5. The respective learned Government Advocate, appearing on behalf of the Hindu Religious and Charitable Endowments Department [hereinafter referred to as the 'HR&CE Department', in short] and the Police Department, contended that the complaints made by the petitioner and the fifth respondent against each other, were enquired into and closed on 19.08.2021.

6. The learned Government Advocate, appearing on behalf of the HR&CE Department, on instructions, made a submission that the original Lessee Smt.Komalammal is not in possession of the



temple property and her whereabouts are not known. The petitioner and the fifth respondent are fighting each other for illegal occupation of the temple premises and under these circumstances, under Section 78 of the Act, proceedings are initiated to remove the encroachments. It is contended that actions are initiated to evict the encroachers by following the procedures as contemplated under the Act.

7. This being the factum placed before this Court, neither the petitioner nor the fifth respondent has got any valid leasehold right in respect of the temple properties. Thus, there is no infirmity, as such, regarding the initiation of eviction proceedings under Section 78 of the Act. After completion of eviction proceedings, if the petitioner wishes to take lease, he has to approach the Authorities in the manner known to law.

8. It is made clear that the subject property belongs to temple. The petitioner and the fifth respondent are fighting each other. Thus, the Police Authorities have no role to play in respect of the dispute between the petitioner and the fifth respondent and also the temple, which is to be decided in accordance with the provisions of the Act.

9. The learned Government Advocate, appearing on behalf of the HR&CE Department and the Police Department, made it clear that they are initiating eviction proceedings under the provisions of the Act and by exercising the powers conferred under the Act.

10. However, the eviction proceedings are initiated, as the petitioner and the fifth respondent are not valid leaseholders and they are encroachers for the purpose of initiation of action under the provisions of the Act. Thus, the respondents 1 to 3 are directed to initiate appropriate proceedings for eviction of encroachers in the temple premises immediately and complete the said process, within a period of four weeks from the date of receipt of a copy of this order.

11. With the above directions, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar



Svn
To

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4.The Inspector of Police (Law and Order),
Vepery Police Station,
Chennai - 600 007.

+lcc to Mr.K.Sellathurai, Advocate Sr.53465
+lcc to the Government Pleader Sr.53499, 53530

WP 20686 of 2021

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srg 27/10/2021