



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.4687 of 2017

R.E.Muthu

...Petitioner

Vs

1.The Joint Commissioner,
Hindu Religious & Charitable Endowment Dept.,
Uthamar Gandhi Salai,
Chennai - 600 034.

2.The Executive Officer,
Arulmighu Payandi Amman Temple,
Nadukuppam, 6th Street,
Lloyds Road, Triplicane,
Chennai-600 005.

...Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of certiorarified mandamus to call for the records of the 1st respondent in Na.Ka.No.6236/2016/A2 dated 22.07.2016 and quash the same and direct the Respondents to forbear from initiating any proceedings under Section 78 of the HR & CE Act without considering the Petitioner's representation dated 02.01.2017 for assessing the fair rent and the corresponding charges in respect of the property bearing No.119 (old No.65) Santhome High Road, Pattinampakkam, Chennai-600 028, measuring an extent of 600sq.ft.

For Petitioner : Mr.Rajarajan

For Respondents : Mr.N.R.R.Arun Natarajan (for R1)

Government Advocate

Mr.Wilson Topaz

for M/s.A.S.Kailasam Asso. (for R2)

O R D E R

The petitioner in this writ petition has challenged notice dated 22.07.2016 under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959 (Act) calling upon the petitioner to show cause why not be evicted as an encroacher in respect of the property at No.119 (old No.65), Santhome High Road, Pattinampakkam, Chennai (property) that is under



occupation by him. The owner of the property is the Arulmigu Payandi Amman Temple, Nadukuppam, Chennai (temple).

2. Admittedly, there is no valid arrangement in terms of Section 34 of the Act, qua the temple and the petitioner. The arrangement was originally with one Dr. Selvi Jubai, under a deed of lease dated 01.11.1956 for a period of fifty years executed by R2/Executive Officer of the temple. Subsequent to the demise of the original lessee, the petitioner has been occupying the property and has also been utilising the same for commercial purposes.

3. A request appears to have been made by the petitioner to the 2nd respondent for transfer of the lease to the name of the petitioner. While the request appears to have been accepted in principle, it was subject to compliance with various conditions including payment of rents regularly.

4. At the time of admission of this writ petition, an order was passed by Mr. Justice B. Rajendran on 24.02.2017 directed the petitioner to deposit a sum of Rs.10 lakhs within a period of four weeks and continue to pay the rent at the rate of Rs.17,000/- per month. Learned counsel for the temple was directed to confirm compliance with the order and has filed a memo dated 13.07.2021 to the following effect:

'1. The amount of Rs.10 lakhs as specified in the Interim Order of this Hon'ble Court has not been paid. The Respondent states that as a consequence proceeding under Sec. 78 have been initiated and are pending before the 1st Respondent. The Respondent further states that the 2nd limb of the Interim Order of this Hon'ble Court namely payment of Rs.17,000 per month has also not been complied with.

2. The proceedings fixing fair rent has been communicated to Petitioner by letter dated 13.06.2011 and the same is filed with this memo and subsequently the impugned notice was issued 22.07.2016.

3. As on date, the Petitioner tenancy was accepted subject to performance of certain conditions and was not acted upon by the Petitioner. Therefore, the Petitioner cannot be strictly construed as recognized tenant.

4. It is also submitted that the Petitioner has not been paying any rents for more than 10 years and has been utilizing the premise for commercial purpose.

In view of the submissions made by the 2nd Respondent, this Hon'ble Court may be pleased to pass suitable orders.'



5. In light of the above memo, there is no merit in this writ petition and the same is dismissed. Proceedings under Section 78 shall continue and for this purpose, the petitioner shall appear before the first respondent/Joint Commissioner on Friday, the 23rd of July, 2021 at 10.30 a.m. without expecting any further notice in this regard. After hearing the petitioner, orders shall be passed within a period of four weeks thereafter, i.e. from 23.07.2021.

6. This writ petition is dismissed. Connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar

VS

To

1. The Joint Commissioner,
Hindu Religious & Charitable Endowment Dept.,
Uthamar Gandhi Salai,
Chennai - 600 034.

2. The Executive Officer,
Arulmighu Payandi Amman Temple,
Nadukuppam, 6th Street,
Lloyds Road, Triplicane,
Chennai-600 005.

+1cc to M/s.A.S.Kailasam & Associates, Advocate SR.No.33315

+1cc to the Government Pleader SR.No.33657

W.P. No.4687 of 2017

RGN(CO)
RVM(25/08/2021)