



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P. (MD) No.2342 of 2014

and MP(MD)No.1 of 2014

WEB COPY

B.Vijayakumar @ Vijaya Rangan ... Petitioner

vs.

1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Chennai.

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

3.The Executive Officer cum Joint Commissioner,
Sriranganatha Swamy Temple,
Srirangam, Trichy District.

4.The Commissioner,
Trichirapalli Municipal Corporation,
Trichy.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, forbearing the respondents 3 and 4 from evicting the petitioner from Door No.83A, V.O.C. Street, Srirangam, Trichy District or demolishing the same without following the provisions of Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959.

For Petitioner : Mr.R.Raja
for Mr.T.R.Jeyapalam

For Respondents : Mr.S.Shanmugavel
Additional Government Pleader
(for R1 & R2)
Mr.M.Saravanan (for R3)
Mr.R.Baskaran
Standing Counsel (for R4)

O R D E R

Heard Mr.R.Raja, learned counsel representing Mr.T.R.Jeyapalam, learned counsel appearing for the petitioner, Mr.S.Shanmugavel, learned Additional Government Pleader, who takes notice for respondents 1 and 2, Mr.M.Saravanan, learned counsel, who takes notice for the third respondent and Mr.R.Baskaran, learned Standing Counsel, who takes notice for the fourth respondent.



2.The writ petition has been filed in the nature of Writ of Mandamus, forbearing the respondents 3 and 4, namely, the Executive Officer cum Joint Commissioner, Sri Ranganatha Swamy Temple, Srirangam, Trichy District and the Commissioner, Trichirapalli Municipal Corporation, Trichy, from evicting the petitioner from Door No.83A, V.O.C. Street, Srirangam, Trichy District or to demolish the same without following the provisions of the Tamil Nadu Hindu Religious and Charitable Endowments Act 1959.

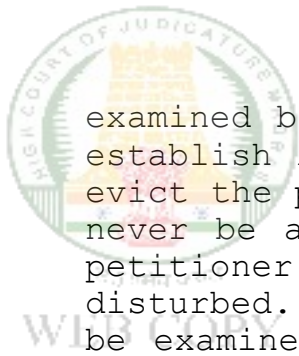
3.In the affidavit filed in support of the writ petition, it had been stated that the property measuring 360 sq.ft in T.S.No.1817/2, Door No.83A, V.O.C. Street, Srirangam, Trichy, belongs to Sri Ranganatha Swamy Temple at Srirangam. It is claimed that the property was leased to the mother of the petitioner by the then Executive Officer cum Assistant Commissioner, by an order, dated 20.09.1977. The copy of the said order has been filed as a document along with the writ petition. It was claimed that the mother was occupying the vacant site by putting up a cattle shed. It is also claimed that the rent had been regularly paid. The superstructure was assessed to property tax by the fourth respondent/Trichy Municipal Corporation. The mother also obtained electricity service connection. It is also claimed that she was staying in the property with her family. The rent was also enhanced from time to time. The petitioner now claims that he is residing in the property along with his family. It is claimed that the lease was not terminated by the third respondent/Executive Officer cum Joint Commissioner, Sri Ranganatha Swamy Temple, Srirangam, Trichy District. The petitioner claims that his tenancy has been recognized and in this connection, has stated that he has been paying rents upto the year 2019 to the third respondent.

4.The learned counsel for the petitioner has also produced additional documents, two rental receipts, dated 28.06.2018 and 08.05.2019. There is a clear 11 month difference between the two rental receipts. Both the rental receipts have been issued in the name of Tmt.Sivapayee Ammal/mother of the petitioner herein.

5.The petitioner has also produced property tax receipts, property tax and water supply charges and underground drainage connection. These are documents, which are practically self serving, which are documents issued by the fourth respondent.

6.But primarily, the petitioner should claim locus to continue to be in possession. Even otherwise, the petitioner has to establish possession. Possession is an aspect, which can never be determined by the Writ Court.

7.The petitioner will have to first establish *bonafide* in continuing to occupy to the adverse interest of any other legal servicescourts.gov.in/services/



examined by the writ Court. The petitioner will also then have to establish *malafide* on the part of the respondents in attempting to evict the petitioner. That again is an issue of evidence, which can never be appreciated by the writ Court. The relief sought by the petitioner is seeking to continue in possession without being disturbed. This is unfortunately not a relief or a relief that can be examined or granted by Writ Court. The entire issues revolves around the third respondent affirming the petitioner's status as a tenant and even prior to that, affirming the petitioner's status as a legal representative recognized to continue in possession not only by the third respondent but also by the other legal representatives of his deceased mother. All these aspects require documents to be examined and quite unfortunately, the writ Court can never appreciate these documents.

8.In view of all these reasons, I am afraid, I cannot accede to grant any relief to the petitioner herein. The petitioner is permitted to take the matter in accordance with law, to any other forum to establish possession, establish that he has an existing right over the property and establish that such right should be recognized.

9.Observing as follows, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sj1

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Chennai.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Trichy.



+1 CC to M/s.R.BASKARAN, Advocate (SR-36365[F] dated 29/11/2021)

+1 CC to M/s.SPL GP (SR-36500[F] dated 30/11/2021)

+1 CC to M/s.M. SARAIVANAN, Advocate (SR-36443[F] dated 30/11/2021)

+1 CC to M/s.T.R. JEYAPALAM, Advocate (SR-36574[F] dated 30/11/2021)

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RK(13.12.2021) 4P 7C