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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Writ Petition No.2433 of 2022
and W.M.P.No.2607 of 2022

M/s.The Paints and Hardware Mart
Represented by the Partner S.Srinivasa Rao
Shop No.140, Commercial Road
Ootacamund, Nilgiris District. .. Petitioner

Vs.

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

2.The Joint Commissioner
Hindu Religious and Charitable Endowments
Department
Coimbatore District.

3.The Assistant Commissioner
Hindu Religious and Charitable Endowments
Department
Coimbatore District.

4.The Executive Officer
Arulmigu Anjaneya Swamy Thiru Kovil
Ootacamund, Nilgiris District. .. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the 4th respondent to desal the lock imposed by the 4th respondent on the petitioner's shop situated at M/s.The Paints and Hardware Mart, Shop No.140, Commercial Road, Ootacamund, Nilgiris District and consequently, direct the 1st respondent to entertain the appeal under Section 34(A)(3) Sr.No.27716 dated 31.03.2021 filed by the petitioner within a time frame fixed by this Court or direct the 4th respondent to conduct the auction for the shop run by the petitioner.



For Petitioner : Mr.T.Karunakaran
For R1 to R3 : Mr.S.Yashwanth
Additional Govt. Pleader (HR and CE)
For R4 : Mr.Rajesh Vivekanandan

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O R D E R

The present Writ Petition is filed for issuance of a Writ of Mandamus directing the 4th respondent to de-seal the lock put up by the 4th respondent on the petitioner's shop situated at M/s.The Paints and Hardware Mart, Shop No.140, Commercial Road, Ootacamund, Nilgiris District and consequently, direct the 1st respondent to entertain the appeal under Section 34(A)(3) Sr.No.27716 dated 31.03.2021 filed by the petitioner within a time frame fixed by this Court or direct the 4th respondent to conduct auction for the shop run by the petitioner.

2.The learned counsel appearing for the petitioner submitted that the petitioner is willing to vacate the premises with liberty to agitate for fair rent fixation in the appeal filed by him. This Court by the order dated 09.02.2022 directed the petitioner to file an affidavit and on such filing of affidavit, the 2nd respondent was directed to consider the same and pass orders on merits. As per the order of this Court, the petitioner has filed affidavit before the 2nd respondent, Joint Commissioner of H.R. and C.E. Department and produced the copy of the affidavit along with the order passed by the 2nd respondent dated 15.02.2022 granting one month time to the petitioner to vacate and hand over the vacant premises on or before 16.03.2022.

3.The learned counsel appearing for the petitioner further submitted that the petitioner shall vacate and hand over the possession on or before 16.03.2022, if the 4th respondent de-seals the shop. The petitioner may be given liberty to participate in the auction, if the said shop is brought in for public auction.

4.Mr.Rajesh Vivekanandhan, the learned counsel appearing for the 4th respondent Temple submitted that the petitioner has to pay a sum of Rs.22,00,000/- as on today and if the petitioner is permitted to vacate the shop, he will not pay the amounts and prayed for dismissal of the Writ Petition.

5.Heard the learned counsel appearing for the petitioner as well as the learned Additional Government Pleader appearing for the respondents 1 to 3 and the learned counsel appearing for the 4th respondent.



6.Considering the above submissions, this Court by the order dated 17.02.2022 directed the petitioner to file an affidavit of undertaking to vacate and hand over the vacant possession of the premises to the 4th respondent on or before 16.03.2022. The petitioner has filed an affidavit of undertaking on 18.02.2022 undertaking that he will vacate and hand over the rented premises on or before 16.03.2022, if the 4th respondent de-seals the shop without prejudice to his right to challenge the enhancement of rent from Rs.20,270/- to Rs.92,180/- per month. The said affidavit of undertaking filed by the petitioner dated 18.02.2022 is taken on file. In as much as the 2nd respondent by the proceedings dated 15.02.2022 has granted time to the petitioner to vacate and hand over the possession to the 4th respondent till 16.03.2022, the 4th respondent is directed to de-seal the shop on or before 25.02.2022. On such de-sealing the shop, the petitioner is directed to vacate and hand over the vacant possession of the shop to the 4th respondent on or before 16.03.2022. If the petitioner fails to vacate and hand over the vacant possession to the 4th respondent on or before 16.03.2022, it is open to the 4th respondent to seal the shop and take appropriate action as per the law. As far as the liberty sought for by the petitioner to participate in the auction for the lease hold right of the said shop is concerned, if the lease hold right of the said shop is brought in public auction, it is open to the petitioner to participate in the auction, if he satisfies the condition of the auction mentioned in the notice.

7.With the above directions, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

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

2.The Joint Commissioner
Hindu Religious and Charitable Endowments



Department ,Coimbatore District.

3.The Assistant Commissioner
Hindu Religious and Charitable Endowments Department
Coimbatore District.

4.The Executive Officer
Arulmigu Anjaneya Swamy Thiru Kovil
Ootacumund, Nilgiris District.

+2 ccs to Mr.T.Karunakaran, Advocate Sr.NO. 10974

+1 cc to Mr.Rajesh Vivekanandan, Advocate Sr.NO. 11206

W.P.No.2433 of 2022
and W.M.P.No.2607 of 2022

NR(CO)

A.SK(22.02.2022)