



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.450 of 2022

K.A.Sreedharan

..Appellant/Petitioner

Vs.

1.The Commissioner

Hindu Religious and Charitable
Endowments Department
Chennai 600 034.

2.The Joint Commissioner

Hindu Religious and Charitable
Endowments Department
Coimbatore District
Coimbatore.

3.The Executive Officer

M/s. Arulmigu Maagaliyamman Thirukovil
Rangegowder Street
Coimbatore 641 001.

..Respondents/Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 24.11.2021 made in W.P.No.25059 of 2021.

Prayer in W.P.No.25059 of 2021: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus directing the respondents to furnish the order No.Na.Ka.2945/2017/A4 dated 20.4.2017 of the 2nd respondent referred in the letter dated 28.7.2020 of the 3rd respondent.

For the Appellant : Mr.Prakash Goklaney

For the Respondents : Mr.NRR.Arun Natarajan
Spl. Govt. Pleader (HR&CE)



exists under the Act of 2005. In any case, learned Single Judge considered the issue in reference to the conduct of the writ petitioner and dismissed the petition. It is a case where a copy of the order dated 28.07.2020 was served on the petitioner seeking payment of arrears of rent and knowing about it, without making the payment, the petitioner tried to delay the process.

7. The writ petition was filed at the stage when another application dated 20.09.2021 seeking some information under the Act of 2005 was dealt with by order dated 27.09.2021. If the information sought by the appellant was not provided, he was having a remedy of appeal under the Act of 2005. However, without availing the aforesaid, the writ petition was filed. The writ petition could have been dismissed on the ground aforesaid, but addressing the conduct of the appellant, it has been dismissed.

8. Now, the position is that an order under Section 78 of the Act of 1959 has already been passed by the second respondent. Since the application under the Right to Information Act, 2005 was also submitted before the filing of the writ petition, the writ petition itself was not maintainable. For that, the appellant should have taken the remedy of appeal under the Act of 2005. Accordingly, without accepting the argument, we dismiss the appeal as well as the writ petition on the ground of availability of remedy of appeal under the Act of 2005 and otherwise, we do not find any merit or any error in the impugned order to cause interference.

9. The writ appeal is, accordingly, dismissed. However, it will not prevent the appellant to challenge determination of rent and the order under Section 78 of the Act of 1959, if he so chooses and the dismissal of the writ appeal and writ petition would not come in the way. There will be no order as to costs. Consequently, CMP No.3265 of 2022 is closed.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

kpl/drm

To

1. The Commissioner,
Hindu Religious and Charitable Endowments Department,
Chennai 600 034.



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

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3. The Executive Officer,
M/s. Arulmigu Maagaliyamman Thirukovil,
Range Gowder Street,
Coimbatore 641 001.

+2ccs to Mr. Prakash Goklaney, Advocate SR. No.14847

+1cc to Government Pleader SR. No.14849

W.A.No.450 of 2022

GJ (CO)

PR (14/03/2022)