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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2022

C O R A M

THE HON'BLE MS.JUSTICE V.M.VELUMANI

W.P.NO.4875 OF 2022

AND

W.M.P.NO.4992 OF 2022

Dr.Latha Bhatt

... Petitioner

Vs

1. The Joint Commissioner Chennai  
Hindu Religious and Charitable Endowment  
(HE & CE) Department,  
No.128, Yadaval Street,  
Padi, Chennai - 600 050.
2. The Assistant Commissioner,  
Hindu Religious and Charitable Endowment  
(HE & CE) Department,  
No.119, Uthamar Gandhi Road,  
Nungambakkam,  
Chennai - 600 034.
3. The Executive Officer,  
Arulmigu Gangadeeswarar & Connected Temples,  
Gangadeeswarar Temple,  
Purasawalkam, Chennai - 600 084.
4. P.Jayanthi
5. P.Malani
6. Dr.Sasikala Rao

... Respondents

Prayer Writ 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 1<sup>st</sup> respondent in connection with order dated 10.02.2022 in M.P.No.50 of 2017 and quash the same and direct the 1<sup>st</sup> respondent to dispose the said petition on merits after providing proper opportunity to the petitioner.



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For Petitioner : Mr.R.Srinivas  
for Mythili Srinivas

For R1 & R2 : Mr.N.R.R.Arun Natarajan  
Special Government Pleader  
(HR & CE)

#### ORDER

This Writ Petition is filed challenging the order of the 1<sup>st</sup> respondent dated 10.02.2022 in M.P.No.50 of 2017 and for a direction to the 1<sup>st</sup> respondent to dispose the said petition on merits, after providing proper opportunity to the petitioner.

2.According to the petitioner, the petitioner and respondents 4 to 6 are the daughters of one Late Lakshmi Narayana Bhat. Originally, Arulmigu Gangadeeswarar Temple granted lease of the land to the petitioner's father with dilapidated superstructure. He demolished existing superstructure and put up new superstructure and was running a hotel by name "Raj Bhavan" in the said property. The temple and other statutory authority had issued 'No Objection Certificate' for grant of all amenities viz., electricity service connection and license from all statutory authorities. While so, the 3<sup>rd</sup> respondent called upon the father of the petitioner to surrender the vacant possession of the said property and filed O.S.No.4266 of 2001 on the file of the V Assistant Judge, City Civil Court, Chennai for eviction of petitioner's father and claimed Rs.50,00,000/- for the damages. The petitioner's father also filed O.S.No.3079 of 1999 for permanent injunction against the the 3<sup>rd</sup> respondent. Pending the suit, father of the petitioner died and the petitioner's mother was brought on record as defendant. Subsequently, the mother of the petitioner also died and the petitioner and respondents 4 to 6 were brought on record as defendants. Suit filed by the 3<sup>rd</sup> respondent was decreed and the suit filed by the father of the petitioner was dismissed.

3.While so, the 3<sup>rd</sup> respondent issued notice dated 13.05.2016, to deliver the vacant possession. When the same was challenged by way of Writ Petition, this Court directed the petitioner to treat the said notice as show cause notice and submit their explanation/objection within a period of two weeks from the date of receipt of a copy of that order to the 3<sup>rd</sup> respondent. As per the order of this Court, the petitioner submitted the explanation. However, the 3<sup>rd</sup> respondent has not considered the same but forwarded the same to the 2<sup>nd</sup> respondent and the 1<sup>st</sup> respondent initiated proceedings under Section 78 of



the Tamil Nadu Hindu Religious and Charitable Endowments Act (hereinafter referred as 'the Act', in short), for eviction of the petitioner and others. The petitioner is contesting the proceedings initiated by the 1<sup>st</sup> respondent and filed objection petition in M.P.No.50 of 2017, for dismissal of the proceedings initiated under Section 78 of the Act, stating that the said proceedings itself is not maintainable as the 3<sup>rd</sup> respondent has already initiated legal proceedings in O.S.No.4266 of 2001, for eviction of the petitioner and respondents 4 to 6. The first appeal filed in A.S.No.132 of 2017, challenging the decree passed in OS.No.4266 of 2001 is pending in which interim injunction has been granted. In view of the same, the respondents 1 to 3 cannot initiate proceedings under Section 78 of the Act. The 3<sup>rd</sup> respondent has filed counter affidavit on 10.02.2022 in the objection petition and the petitioner filed written arguments on 17.02.2022, which was received by the 1<sup>st</sup> respondent on that date. Then the 1<sup>st</sup> respondent informed the counsel for the petitioner that the objection petition filed by the petitioner was dismissed and the case was posted for recording evidence on 17.02.2022. After obtaining the certified copy of that order, the petitioner has come out with the present Writ Petition.

4.The learned counsel appearing for the petitioner submitted that the 1<sup>st</sup> respondent dismissed the objection petition filed by the petitioner by passing non-speaking order without giving any reason and therefore, prayed to set aside the order passed by the the 1<sup>st</sup> respondent in M.P.No.50 of 2017 dated 10.02.2022.

5.Mr.N.R.R.Arun Natarajan, learned Special Government Pleader appearing for the respondents 1 and 2 submitted that the proceedings initiated under Section 78 of the Act is maintainable as Mr.Lakshmi Narayana Bhat, father of the petitioner is an encroacher after expiry of the lease period and the petitioners and respondents 4 to 6, who are legal heir of the Lakshmi Narayana Bhat are also encroachers. This Court, in W.P.No.19258 of 2021 dated 29.09.2021, filed by the petitioner and respondents 4 to 6, challenging the fixation of fair rent, has allowed the respondents therein to initiate proceedings under Section 78 of the Act and held that the petitioner and the respondents 4 to 6 are in illegal occupation of the subject property of the temple. The said order was confirmed by the Hon'ble Division Bench of this Court in W.A.No.2806 of 2021 by order dated 26.11.2021 and hence the petitioner cannot file the petition for rejection of proceedings initiated under Section 78 of the Act. The 1<sup>st</sup> respondent has rightly rejected the petition that there is no reason to interfere with the order of the 1<sup>st</sup> respondent and prayed for the dismissal of the Writ Petition.



6. Heard the learned counsel appearing for the petitioner as well as Mr.N.R.R.Arun Natarajan, learned Special Government Pleader (HR & CE) appearing for the respondents 1 and 2 and perused the materials available on record.

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7. The petitioner in his affidavit has elaborately mentioned various legal proceedings and contended that the present proceeding initiated by the 1<sup>st</sup> respondent under Section 78 of the Act is not maintainable. According to the learned counsel appearing for the petitioner, the petitioner has filed objection petition for dismissal of the proceedings initiated under Section 78 of the Act, in view of the suit filed by the 3<sup>rd</sup> respondent and pendency of the first appeal in A.S.No.132 of 2017, in which injunction granted in favour of the petitioner. The contention of the learned counsel appearing for the petitioner is that the 1<sup>st</sup> respondent is Quasi Judicial Authority and orders passed by the 1<sup>st</sup> respondent must be a speaking order and impugned one line order is invalid and illegal and has considerable force. From the materials on record and submissions of the learned counsel for the petitioner, it is seen that the petitioner has filed objection for dismissal of proceedings under Section 78 of the Act and the 3<sup>rd</sup> respondent has already filed counter affidavit to the said objection petition. According to the learned counsel for the petitioner, the petitioner also filed written arguments on 17.02.2022, which was received by the 1<sup>st</sup> respondent. According to the learned Special Government Pleader appearing for the respondents 1 and 2, by order dated 29.09.2021, this Court in W.P.No.19258 of 2021, filed challenging the fixation of fair rent, held that the petitioner and the respondents 4 to 6 are illegal occupants of the subject property of the temple and therefore, the impugned order passed by the 1<sup>st</sup> respondent need not be interfered.

8. From the impugned order it is seen that, the 1<sup>st</sup> respondent has not considered the objections raised by the petitioner and the counter affidavit filed by the 3<sup>rd</sup> respondent and has passed the impugned order rejecting the objection petition without giving any reason and said order is a non-speaking order. The 1<sup>st</sup> respondent being a Quasi Judicial Authority has to consider the objection raised by the petitioner, counter affidavit filed by the 3<sup>rd</sup> respondent and the arguments of the petitioner as well as the 3<sup>rd</sup> respondent and pass orders by giving reasons. The 1<sup>st</sup> respondent has failed in exercising his power as a quasi judicial authority by dismissing objection petition by passing non-speaking order. In view of the same, the impugned order dated 10.02.2022 in M.P.No.50 of 2017 passed by the 1<sup>st</sup> respondent is liable to be set aside and the same is hereby set aside. The matter is remanded back to the 1<sup>st</sup> respondent. The 1<sup>st</sup> respondent is directed to consider the



objection petition along with counter affidavit, and written arguments filed by the petitioner and pass detailed order in M.P.No.50 of 2017 by giving reason for either accepting or rejecting the petition, within a period of three (3) weeks from the date of receipt of a copy of this order.

9.The 1<sup>st</sup> respondent has initiated proceedings under Section 78 of the Act in the year 2017 and the petitioner has also filed objection petition in the year 2017 itself. The 1<sup>st</sup> respondent is directed to conduct enquiry and pass orders in the proceedings initiated under Section 78 of the Act, taking into consideration the order passed in W.P.No.19258 of 2021 dated 29.09.2021 and W.A.No.2806 of 2021 dated 26.11.2021, within a period of two (2) months from the disposal of the objection petition.

10.With the above directions, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To:

1. The Joint Commissioner Chennai  
Hindu Religious and Charitable Endowment  
(HE & CE) Department,  
No.128, Yadaval Street, Padi, Chennai - 600 050.
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Hindu Religious and Charitable Endowment  
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3. The Executive Officer,  
Arulmigu Gangadeeswarar & Connected Temples,  
Gangadeeswarar Temple,  
Purasawalkam, Chennai - 600 084.

+1cc to M/s.Mythili Srinivas, Advocate, S.R.No.16403

W.P.No.4875 of 2022  
and W.M.P.No.4992 of 2022

NK(CO)  
RLP(11/04/2022)