



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2022

C O R A M

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

W.P.No.8119 of 2022  
and W.M.P.Nos.8102 & 10136 of 2022

R.Dhanasekar

...Petitioner

Vs

1.The Commissioner,  
TN Hindu Religious & Charitable Endowments  
Department,  
Mahatma Gandhi Road, Chennai -34.

2.The Joint Commissioner (Zone-I),  
TN Hindu Religious & Charitable Endowments  
Department,  
127, Yathaval Street, Padi, Chennai -50.

3.The Assistant Commissioner,  
TN Hindu Religious & Charitable Endowments  
Department,  
Mahatma Gandhi Road, Chennai -34.

4.The Executive Officer,  
TN Hindu Religious & Charitable Endowments  
Department,  
A/m. Sengazhuneer Pillaiyar Koil,  
No.131, Sengazhuneer Pillaiyar Koil,  
Chennai-1.

... Respondents

Prayer Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus, directing the respondents to remove locks and seals of the premises bearing Door No.9/1, thereafter Door No.9, New Door No.13, Salaivinayagar Koil Street, Chennai -1, comprised in Survey No.2686 - part of Muthialpet Village, pending disposal of Appeal Petition dated 28.10.2021 in N.Dis.No.75569/2021 dated 29.10.2021 before the 1<sup>st</sup> respondent herein without any insistence pursuant to the order in Na.Ka.No.13993/2013/A2 dated 21.07.2016 which was served in photo copy on 13.10.2021.

For Petitioner : Mr.A.S.Alaguraja

For Respondents : Mr.S.Yashwanth  
Additional Government Pleader



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## ORDER

The petitioner has come out with the present Writ Petition for a direction to the respondents to remove locks and seals of the premises bearing Door No.9/1, thereafter Door No.9, New Door No.13, Salaivinayagar Koil Street, Chennai -1, comprised in Survey No.2686 - part of Muthialpet Village, pending disposal of Appeal Petition dated 28.10.2021.

2. According to the petitioner, his father was lessee for the land in question. His father put up a cowshed with asbestos sheet and also a super structure and was residing in the property in question. He was doing cow rearing and milk vending business. After death of his father, the petitioner is continuing the business and continued to pay the ground rent regularly without any default. While so, the respondents without following the procedure as per Section 35-A(2) of the Hindu Religious and Charitable Endowments Act (hereinafter referred as 'the Act') enhanced the fair rent from Rs.995/- to Rs.46,880/-. The xerox copy of the said proceeding was served on the petitioner only on 13.10.2021 by the 4<sup>th</sup> respondent. While the petitioner was preparing the appeal on 22.10.2021, respondents 3 and 4 forcibly evicted the petitioner from the premises and sealed the same. Further, the order of eviction under Section 78 (2) of the Act was not served on the petitioner till 31.12.2021.

3. The learned counsel appearing for the petitioner made a submission that the enhancement of rent is arbitrary and without notice. The appeal filed by the petitioner was returned for certain compliances. The learned counsel appearing for the petitioner further submitted that the petitioner is willing to pay a sum of Rs.15 Lakhs pending the appeal, without prejudice to his claim with regard to the enhancement of fair rent and prayed for a direction to the respondents 3 and 4 to remove the seal put up by them.

4. Mr. S. Yashwanth, learned Additional Government Pleader appearing for the respondents submitted that the appeal filed by the petitioner was returned for some defects and it was re-presented by the petitioner on 11.01.2022 and the appeal is yet to be numbered. The appeal filed by the petitioner will be numbered, if it is in order and will be heard and disposed of on merits. The learned Additional Government Pleader further submitted that the petitioner was running two wheeler and car parking shed without permission of respondents and as on today more than a sum of Rs.91,38,598/- is due and hence the petitioner is not entitled for the relief now sought for in the present Writ Petition 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 and perused the materials on record.

6.From the above materials it is seen that, the respondents fixed a fair rent and served copy of the same on the petitioner on 13.10.2021. According to the petitioner, while he was preparing the appeal challenging the said order, the respondents 3 and 4 forcibly evicted the petitioner and sealed the premises on 22.10.2021. It is not in dispute that the petitioner was evicted from the premises on 22.10.2021 before he could file appeal. Now, according to the petitioner and respondents, the petitioner has filed appeal and it is in numbering stage. The petitioner offered to pay a sum of Rs.15 Lakhs without prejudice to his defence in the appeal and brought two Demand Drafts in the name of the 1<sup>st</sup> respondent today before this Court. The petitioner is directed to take Demand Draft for a sum of Rs.15 Lakhs in the name of the 4<sup>th</sup> respondent and pay the same to the 4<sup>th</sup> respondent. The respondents 3 and 4 are directed to de-seal the premises forthwith on receiving the Demand Draft from the petitioner.

7.Mr.S.Yashwanth, learned Additional Government Pleader appearing for the respondents is directed to inform the 4<sup>th</sup> respondent to receive the Demand Draft from the petitioner for a sum of Rs.15 Lakhs and de-seal the premises. The learned counsel appearing for the petitioner filed Affidavit of undertaking that the petitioner will not use the rented premises as parking place for the vehicles and sublease the same for any third parties. The said undertaking is recorded. The learned counsel appearing for the petitioner further submitted that the original order copy of the fixation of fair rent was not served on the petitioner and the xerox copy of the order was served only on 13.10.2021. The 1<sup>st</sup> respondent is directed to number the appeal without insisting for original copy of the fair rent fixation order. Mr.S.Sankar, Executive Officer, A/m.Sengazhuneer Pillaiyar Koil, Chennai, the 4<sup>th</sup> respondent herein is present before this Court and informed the Additional Government Pleader that he will furnish the original copy of the order to the petitioner on the date of de-sealing the premises.

8.With the above directions, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

s/d-  
Assistant Registrar

True Copy

Sub-Assistant Registrar



To:

- 1.The Commissioner,  
TN Hindu Religious & Charitable Endowments  
Department,  
Mahatma Gandhi Road, Chennai -34.
- 2.The Joint Commissioner (Zone-I),  
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A/m. Sengazhuneer Pillaiyar Koil,  
No.131, Sengazhuneer Pillaiyar Koil,  
Chennai-1.

+2 Ccs to M/s.S. Ponnarasi, Advocate sr 30041.  
+1 CC to The Government Pleader sr 30552.

W.P.No.8119 of 2022

PVS (CO)  
SP(13/05/2022)