



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2022

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CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.9234 of 2022
and
W.M.P.No.8995 of 2022

D.Radhammal

.. Petitioner

Vs.

1.The Commissioner,
O/o. Department of Hindu Religious & Charitable Endowment
119, Uthamar Gandhi Road,
Thousand Light West,
Nungambakkam,
Chennai 600 034.

2.The Joint Commissioner,
O/o. Department of Hindu Religious & Charitable Endowment
Arcot Road,
Kagithapattarai
Vellore 632 012.

3.The Assistant Commissioner,
O/o. Department of Hindu Religious & Charitable Endowment
Arcot Road,
Kagithapattarai,
Vellore 632 012.

4.The Executive Officer,
Arulmigu Venugopal Swamy &
Varadaraja Perumal Koil, Viruatchipuram,
Office at No.12, Katpadi Road,
Thottapalayam, Vellore 632 004.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Prohibition, prohibiting the 2nd respondent from conducting the proceedings against the petitioner in Miscellaneous Petition No.103/2022/A1 dated 14.03.2022 till the appeal dated 28.12.2021 before the 1st respondent is disposed of and attain finality.



For Petitioner : Ms.R.Gobika
for Mr.S.Sathia Chandran

For Respondents: Mr.S.Yashwanth
Additional Government Pleader

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O R D E R

This Writ Petition is filed by the petitioner, seeking to prohibit the 2nd respondent from conducting the proceedings against the petitioner in Miscellaneous Petition No.103/2022/A1 dated 14.03.2022, till the appeal dated 28.12.2021 before the 1st respondent is disposed of and attains finality.

2. According to the petitioner, the land in question belongs to the 4th respondent Temple and the same was leased out to her husband by the Area Committee of the Temple in the year 1966. Her husband put up superstructure in the year 1966 and 1967 and was paying ground rent to the temple. In the year 2013, the HR & CE Department took over the temple. The petitioner's husband died on 21.08.2020. Thereafter, the petitioner was paying the ground rent to the 4th respondent regularly. While so, two separate demand-cum-eviction notices were sent to the petitioner, calling upon her to pay a sum of Rs.4,09,360/- for Door No.214, Arni road and Rs.1,26,140/- for Door No.7A, Gangaianman Koil street. No details were furnished to the petitioner. The petitioner paid a sum of Rs.30,000/- and another sum of Rs.21,000/- towards outstanding rents as alleged in the demand cum eviction notices and receipts were issued without mentioning the particulars, stating that "without prejudice Damages for use and occupation". After obtaining particulars under the Right to Information Act, the petitioner sent representation dated 29.07.2021 to the 2nd respondent to re-fix the fair rent only for the land. However, no order was passed in the said representation. Hence, the petitioner filed W.P.No.23769 of 2021. This Court, by the order dated 15.11.2021, granted liberty to the petitioner to file an appeal under Section 34-A (3) of the Hindu Religious & Charitable Endowments Act to the 1st respondent. The petitioner filed two separate appeals dated 28.12.2021 by RPAD to the 1st respondent along with necessary documents.

3. The learned counsel appearing for the petitioner submitted that while the said appeals are pending, the petitioner received impugned demand notice dated 14.03.2022, calling upon the petitioner to appear before the 2nd respondent for enquiry with regard to non-payment of rent arrears to the shops, alleging that the petitioner is an encroacher. Challenging the said demand notice, the petitioner has come out with the present Writ Petition.



4.Mr.S.Yashwanth, learned Additional Government Pleader appearing for the respondents submitted that the appeals filed by the petitioner were returned as the petitioner failed to make statutory deposit for filing appeals and no appeal is pending challenging the fixation of fair rent. Hence, the prayer sought for in this Writ Petition is not maintainable 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 entire materials available on record.

6.From the above materials on record, it is seen that the petitioner is seeking a direction, prohibiting the 2nd respondent from conducting the proceedings against her in Miscellaneous Petition No.103/2022/A1 dated 14.03.2022 till the appeals dated 28.12.2021 before the 1st respondent is disposed of and attains finality. According to the petitioner, as per the order of this Court dated 15.11.2021 made in W.P.No.23769 of 2021, she filed two appeals dated 28.12.2021 and the same are still pending before the 1st respondent. The petitioner has not given any particulars with regard to the number of appeals, date of hearing, etc. On the other hand, the learned Additional Government Pleader submitted that the appeals were returned as the petitioner did not make statutory deposit and produced the document to show the same. The learned counsel appearing for the petitioner submitted that the appeals filed by the petitioner were not returned to her. In as much as the petitioner has failed to prove that the appeals filed by her were numbered and are pending, the petitioner is not entitled to the relief now sought for in the present Writ Petition. It is open to the petitioner to re-present the appeals, complying with the statutory provisions.

With the above observation, the Writ Petition is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

gsa



To

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+1cc to Government Pleader SR.No.29789

W.P.No.9234 of 2022

SSN(CO)
GMY(24/05/2022)