



WEB COPY



W.P. No. 27665 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2022

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

**W.P. No. 27665 of 2022
and
W.M.P. Nos. 26940 and 26941 of 2022**

A.Raman

... Petitioner

-VS-

1. The Commissioner
Hindu Religious and Charitable Endowments Department
Uttamar Gandhi Salai
Nungambakkam
Chennai - 600 034.
2. The Joint Commissioner, Chennai
Office of the Joint Commissioner
Hindu Religious and Charitable Endowments Department
Uttamar Gandhi Salai
Nungambakkam
Chennai - 600 034.
3. The Joint Commissioner, Kancheepuram
Office of the Joint Commissioner
Hindu Religious and Charitable Endowments Department
Kancheepuram.
4. Arulmigu Thirusoolanathar Thirukoil
Rep. by its Executive Officer
Thirisoolam, Chennai - 600 043.
5. The Revenue Divisional Officer
Tambaram Taluk
Tambaram.



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6. The Assistant Commissioner
Hindu Religious and Charitable Endowments Department
Chengalpattu.

7. The Tahsildar
Pallavaram.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the Joint Commissioner, Chennai in M.P. No. 28/2011 dated 01.06.2020 and quash the same as illegal and further direct the First Respondent to consider the Petitioner as a Tenant and consequently direct the authorities to fix fair rent to the property as per Section 34-A of the HR & CE Act, 1959.

For Petitioner : Mr. S.R.Rajagopal

For Respondents : Mr. N.R.R.Arun Natarajan
Special Government Pleader
(For R1 to R4 and R6)

Mrs. N.Senthil Selvi
Government Advocate (For R5 and R7)

ORDER

Heard Mr. S.R.Rajagopal, Learned Counsel for the Petitioner, Mr. N.R.R.Arun Natarajan, Learned Special Government Pleader appearing for the First to Fourth and Sixth Respondents and Mrs. N.Senthil Selvi, Learned Government Advocate appearing for the Fifth and Seventh Respondents and perused the materials placed on record, apart from the pleadings of the parties.



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2. The Second Respondent, viz., Joint Commissioner, Hindu Religious and Charitable Endowments Department, Chennai, had passed an order dated 01.06.2020 in M.P. No. 28 of 2011 for eviction of one J.Chellammal from the property bearing S. Nos. 44, 45/1, 45/2, 46 situated at No. 2/586, Amman Nagar, XII Street Extension, Tirusulam, Chennai – 600043 having an extent of 861 sq. ft. occupied by her, under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (hereinafter referred to as 'the Act' for short). The Petitioner, who claims to have purchased the said property from the said J.Chellammal on 10.08.2012 by an unregistered sale deed, which is evidently during the pendency of the aforesaid eviction proceedings, has challenged the said order in this Writ Petition and has sought for consequential direction to treat him as tenant and fix fair rent for that property as per Section 34-A of the Act.

3. It is informed that though fresh proceedings for eviction under Section 78 of the Act had been mistakenly initiated against the Petitioner in M.P. No. 918 of 2022 before the Third Respondent, it has been subsequently withdrawn on 27.11.2022 in furtherance to the letter dated 25.11.2022 sent by the Fourth Respondent to the Third Respondent and its copy has been placed on record.



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4. Since the Petitioner claims to have purchased the property from the said J.Chellammal only during the pendency of the eviction proceedings against her, by virtue of doctrine of *lis pendens*, he would be bound by the same and cannot be heard to contend that no separate notice had been issued to him in those proceedings so as to vitiate its enforceability against him. It is also brought to notice that the Division Bench of this Court by order dated 05.09.2022 in W.P. No. 21323 of 2021 has directed to expedite the eviction of the unauthorized occupants in the properties of the Temple of the Fourth Respondent, and the Petitioner cannot protract the same under the guise of prosecuting this Writ Petition to indefinitely retain the property for which he does not have right, title or interest to occupy the same.

4. Learned Counsel for the Petitioners lastly makes a fervent plea that the Petitioners may be permitted to make application for regularizing their occupation of the property by granting lease with retrospective effect with collection of rent due for that period. It is made clear that though no view has been expressed by this Court on the correctness or entitlement of such claim made, the Petitioner is not precluded from resorting to any remedy, if available in that regard, in accordance with law.



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Consequently, the connected Miscellaneous Petitions are closed. No costs.

28.11.2022

Maya

Index: Yes/No

Note: Issue order copy by 06.01.2023.

To

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P.D. AUDIKESAVALU, J.

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