



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.06.2022

CORAM:

THE HONOURABLE **MR.JUSTICE M.NIRMAL KUMAR**

W.P.(MD)No.11489 of 2018

and

WMP (MD) Nos.10473 and 10474 of 2018

WEB COPY

Padmavathi

.. Petitioner

Vs

1. The Joint Commissioner

Hindu Religious and Endowments Department
Madurai.

2. Fit Person/Assistant Commissioner

Hindu Religious and Endowments Department,
Dindigul.

3. The Executive Officer

Aurlmigu Chellandi Amman Temple (Additional Charge)
Arulmigu Kalkatheeswarar Temple
Dindigul Town, Dindigul

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the impugned notice dated 09.04.2018 and the consequential notice dated 17.05.2018 issued by the third respondent and quash the same.

For Petitioner	: Mr.V.R.Shanmuganathan for Mr.S.Manikandan
For Respondents No.1 and 2	: Mr.M.Lingadurai Special Government Pleader
For Respondent No.3	: Mr.A.K.Baskarapandian

ORDER

This Writ Petition has been filed to quash the impugned notice dated 09.04.2018 and the consequential notice dated 17.05.2018 issued by the third respondent.

2. The petitioner's father was leased out a house situated at 52B, Chellandi Amman Kovil, 3rd Street, Dindigul Town, Dindigul District by the temple authorities in the year 1957 for a sum of Rs.5/- per month. After getting permission from the concern, he put up construction and the petitioner is dwelling in the said house. The petitioner's father was paying the rent without any default. Thereafter, the petitioner continued to make payment. In the year 1972, tenancy was transferred in the name of the petitioner. The petitioner continues to reside in that place by paying taxes and rent to the temple. In the year 2017, the third respondent issued a

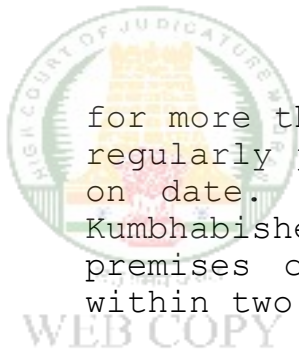


notice refixing the rent of Fair Rent Fixation Committee, vide proceedings, dated 22.06.2017 had fixed the monthly rent from 01.07.2016 as Rs.3540/- and later, it was modified to Rs.3600/- vide notice dated 12.01.2018. The petitioner paying the revised rent regularly including arrears. In the year 1992 and 2005, Kumbhabishekam conducted. Now, the Kumbhabishekam is to be performed for which balaalayam performed in the year 2017 and the renovation work is in progress, black stone carving is going on in two streets away from the temple. Archeological Department earlier conducted inspection, found no archeological monument gave no objection, now Kumbhabishekam work is under progress. This being the case, suddenly on 09.04.2018, the petitioner received a notice directing her to vacate the house within a short period. The reason given is that for the purpose of Kumbhabishekam, the dwelling house of the petitioner is required and further, the petitioner resisted the same. She was attempted to be evicted under Section 78 of the Tamil Nadu Hindu Religious and Charitable and Endowments Act, 1959. The petitioner, for the notice dated 09.04.2015 gave reply dated 17.04.2018 stating that she is residing in the said address from her birth for 65 years, earlier her parents were residing there. Further, the petitioner considering the requirement, was willing to give part of the house for the Kumbhabishekam, which was not agreeable by the third respondent. Hence, the impugned notice under Section 34(B) of the Tamil Nadu Hindu Religious and Charitable and Endowments Act, 1959 was issued. He further submitted that notice under Section 34(B) of the Tamil Nadu Hindu Religious and Charitable and Endowments Act, 1959 cannot be issued straight away and only in the case of arrears of rent, the said notice can be issued. The petitioner is paying the rent without any delay, which is not disputed. Further notice issued calling upon the petitioner to vacate the premises is not proper. He further submitted that the petitioner born within the temple vicinity, she is willing to give the property ie. the dwelling house to the temple for purpose of Kumbhabishekam work. Her only apprehension is that there are two other properties situated in the vicinity of the temple which can be used by the temple authorities. But insisting on the petitioner's property. After completion of the work, the temple authorities might not hand back the dwelling house to the petitioner.

3. The learned counsel appearing for the respondents 1 and 2 would submit that the petitioner admitted that it is a temple property and she is a tenant, she is not having any objection for the temple taking over the property for the purpose of Kumbhabishekam.

4. The learned counsel for the Executive Officer would submit that Balalayam already performed on 02.05.2017 and the Kumbhabishekam work is under progress. Admittedly, the petitioner's house is adjacent house and it will be very useful for the Kumbhabishekam work to be carried out from the petitioner's house.

<https://hcservices.mca.gov.in/hcservices/> that the petitioner is residing in the said place



for more than 65 years, before that her parents were residing there, regularly paying the rent even after refixing the monthly rent as on date. The petitioner's house is required for the purpose of Kumbhabishekam and after completion of Kumbhabishekam work, the premises can be handed back to her without any delay preferably within two weeks of Kumbhabishekam.

5. The petitioners's apprehension is that her dwelling house may not be handed back to her. She would further submit that on the assurance of the temple authorities that they will hand over the premises within a period of two weeks after Kumbhabishekam. She has no objection to vacate the same. She seeks small accommodation to find out suitable alternate accommodation till 04.07.2017. She assures to vacate the said premises on or before 04.07.2022.

6. On the undertaking and assurance given by the temple authorities and Executive Officer, that the dwelling house of the petitioner will be handed over to her within a period of two weeks after Kumbhabishekam, the petitioner shall vacate the premises and hand over the same to the temple authorities who shall hand over the house back to the petitioner as agreed.

7. This Writ Petition is disposed of with the above direction. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/06/2022

Sub Assistant Registrar(CS)

Aav

To

1. The Joint Commissioner
Hindu Religious and Endowments Department, Madurai.

2. Fit Person/Assistant Commissioner
Hindu Religious and Endowments Department,
Dindigul.

+1 CC to M/s.SPL.GP (SR-26854[F] dated 20/06/2022)

+1 CC to M/s.A.K. BASKARAPANDIAN, Advocate (SR-26896[F] dated
20/06/2022)

W.P.(MD)No.11489 of 2018 and

WMP(MD) Nos.10473 and 10474 of 2018

17.06.2022

RD(29.06.2022) 3P 5C