



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.04.2022

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. (MD) .No.8363 of 2015

and

M.P (MD) Nos.1 & 2 of 2015

R.Highcourt Durai

... Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable Endowments Board,
Chennai-34.

2.The Joint Commissioner Cum Executive Officer,
Hindu Religious and Charitable Endowments Board,
Arulmigu Subramaniaswamy Thirukkivil,
Tiruchendur,
Tuticorin District.

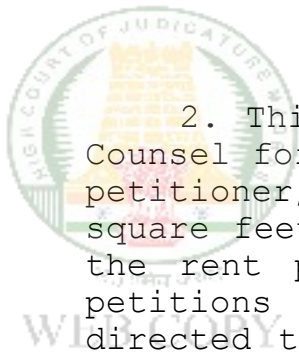
...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.11178/2002/E2, dated 18.04.2015 on the file of the respondent No.2 and quash the same as illegal and consequently, restoring petitioner's possession to the shop No.9, 9A, South Tower, Anugrahavilas Arulmigu Subramaniaswamy Thirukkivil, Tiruchendur, Tuticorin District.

For Petitioner	:	Mr.K.Muraleedharan
For R-1	:	Mr.P.Subbaraj, Special Government Pleader.
For R-2	:	Mr.M.Muthugeethayan

ORDER

The petitioner has filed this writ petition for a Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.11178/2002/E2, dated 18.04.2015 on the file of the respondent No.2 and quash the same as illegal and consequently, restoring petitioner's possession to the shop No.9, 9A, South Tower, Anugrahavilas Arulmigu Subramaniaswamy Thirukkivil, Tiruchendur, Tuticorin District.



2. This writ petition is disposed of after hearing the learned Counsel for the petitioner and the respondent. It is the case of the petitioner, that the petitioner was given an extent of 330+550 square feet of land in the temple. The petitioner was in arrears of the rent payable for the aforesaid area. Several rounds of writ petitions were earlier filed and ultimately the petitioner was directed to pay the arrears amounting to Rs.1,72,380/- and liberty was given to the temple to take appropriate action against the petitioner. The area which was earlier rented out to the petitioner was also repossessed by the temple on 11.05.2015. Meanwhile, during the month of December 2017, the outer giripragaram of the second respondent Tiruchendur Temple fell as the result of which all the shops were re-located and about 84 different persons who were having shops at that point of time where rehabilitated in a new place. It is the case of the petitioner that the petitioner having paid the arrears is also entitled to be rehabilitated.

3. Opposing the prayer, the learned Government Advocate for the respondents submits that the petitioner had suppressed several facts including filing of a subsequent writ petition that the petitioner has now encroached on five different shops and that a notice was issued on 01.02.2021 by the Joint Commissioner which came to be challenged before this Court in W.P(MD)No.18886 of 2021.

4. The learned Counsel for the temple further submits that the writ petition was dismissed on 25.10.2021 by permitting the petitioner to file appropriate revision petition before the Joint Commissioner under Section 21 of the Hindu Religious and Charitable Endowments Act.

5. The learned Government Advocate for the respondent temple further submits that the aforesaid petition is under active consideration of the Joint Commissioner as on date. It is submitted that the subsequent event of the falling of the outer giripragaram of the temple during December 2017, the rehabilitation of the tenants who have occupying the shops would not insure in favour of the petitioner as he has already been evicted on 11.05.2015. It is therefore submitted that there is no merit on this writ petition.

6. The learned Government Advocate for the respondents further submits that pursuant to the orders passed by the Division Bench of this Court in W.A(MD)No.634 of 2015, those 84 shop owners have been given a lease for a period of three years and at the end of three years, the lease will be renewed in terms of the provisions of Hindu Religious and Charitable Endowments Act and the Rules made thereunder. That apart, it is therefore submitted that there is no case made out in this writ petition. That apart, the learned Government Advocate for the respondents further submits that the impugned notice was issued on 11.05.2015 is pursuant to order passed in W.P(MD)No.20356 of 2014 and therefore the petitioner deserves no



7. I have considered the arguments advanced by the learned Counsel for the petitioner and the respondent. Whether the petitioner had encroached five different shops at a latter point of time and whether the petitioner is entitled to continue in possession or has to be evicted is to a subject matter of a revision petition and therefore no opinion has expressed on that issue as the Joint Commissioner is seized of the issue. At the same time, the fact also remains that the petitioner has paid the rent though absolutely after tiring out the temple by exposing the temple through repeated litigation before this Court in several writ petitions. On the same, the petitioner has also invested some amount to putting up a super-structure and a compound.

8. Considering the fact, other persons who continued to have the shops at the time, when the outer giripragaram fell have been rehabilitated and the petitioner may not have been accommodated as the petitioner had not paid the amount in time, I am inclined to dispose of the writ petition by directing the second respondent to consider the petitioner's case independently or in the alternative allow the petitioner to participate in the ensuing auctions. If the petitioner participates in the ensuing auctions, they may consider the petitioner favourably if the petitioner otherwise meets the requirements. The case of the petitioner may be considered favorably and preference be given to the petitioner.

9. The writ petition stands disposed of in terms of the above observation. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

btr

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Commissioner,
Hindu Religious and Charitable Endowments Board,
Chennai-34.



2.The Joint Commissioner Cum Executive Officer,
Hindu Religious and Charitable Endowments Board,
Arulmigu Subramaniaswamy Thirukkovil,
Tiruchendur,
Tuticorin District.

+1 CC to M/s.M.MUTHU GEETHAYAN, Advocate (SR-16469[F] dated
05/04/2022)

+1 CC to M/s.K.MURALEEDHARAN, Advocate (SR-16778[F] dated
06/04/2022)

+1 CC to M/s.SPL.GP (SR-16907[F] dated 06/04/2022)

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RD(17.05.2022) 4P 6C