



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.04.2022

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P(MD).No.21167 of 2017

and

W.M.P(MD).Nos.17434 and 17435 of 2017

&

W.M.P(MD).No.18220 of 2017

P.Ramar

... Petitioner

Vs.

1.The Commissioner,
Tamil Nadu Hindu Religious and Charitable Endowments Board,
Santhome,
Chennai.

2.The Joint Commissioner,
Tamil Nadu Hindu Religious and Charitable Endowments Board,
K.K.Nagar,
Madurai.

3.The Assistant Commissioner,
Tamil Nadu Hindu Religious and Charitable Endowments Board,
Dindigul.

4.The Executive Officer,
Arulmighu Sri Kambaraiyaperumal and
Kasivisvanatha Thirukovil,
Cumbum.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the proceedings Na.Ka.No.7009/2017/A4 dated 16.10.2017 passed by the second respondent and quash the same.

For Petitioner	: Mr.K.Prabakaran
For R1 to R3	: Mr.P.Subbaraj
	Special Government Pleader
For R4	: Mr.C.Gunaseelarupan

ORDER

Heard the learned counsel for the petitioner, the learned Special Government Pleader for the respondents 1 to 3 and the learned counsel for the fourth respondent.

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2. By an order dated 16.11.2017, an Advocate Commissioner was appointed by this Court to give a detailed report. The report has also been filed by the Advocate Commissioner.

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3. The case of the petitioner is that the petitioner is a sub tenant and has been in occupation of the property and has been paying the rent periodically. However, the temple took steps under Section 78 of the Hindu Religious and Charitable Endowments Act, 1959 before the Joint Commissioner and got an order, dated 16.06.2017 to evict the petitioner. It is further submitted that the petitioner has filed a revision petition under Section 21 of the Hindu Religious and Charitable Endowments Act, 1959 in R.P.No.303 of 2017 before the first respondent.

4. The learned counsel for the petitioner submits that the petitioner is agreeable to pay the rent and seeks direction for a regularisation of the tenancy in his name as the petitioner is continue in occupation of the property.

5. Opposing the prayer, the learned counsel for the respondents submits that the petitioner was given enough opportunity to regularise the arrangement in the year 2013. However, the petitioner failed to take advantage of the opportunity granted earlier and therefore, no further request can be entertained. It is further submitted that the petitioner is an encroacher and has no legal right to force the temple to recognise the petitioner as a tenant. That apart, it is submitted that the petitioner has filed R.P.No.303 of 2017 before the Commissioner and therefore under these circumstances, the challenge to the impugned order, dated 16.10.2017 passed by the Joint Commissioner cannot be interfered with.

6. I have considered the arguments advanced by the learned counsel for the petitioner, the learned Special Government Pleader for the respondents 1 to 3 and the learned counsel for the fourth respondent.

7. The fact of the matter is that the petitioner is an occupation of the property and has put up additional construction has allowed the proceedings under Section 78 of the Hindu Religious and Charitable Endowments Act, 1959, to culminate in an order, dated 16.06.2017 of the second respondent. The petitioner has also filed R.P.No.303 of 2017. The said petition is yet to be disposed of.



8. Therefore, I direct the first respondent to dispose R.P.No.303 of 2017 within a period of three months from the date of receipt of copy of this order. Pending such proceeding, the petitioner is directed to pay the arrears of rent towards use and occupation of the property. The respondent temple may also consider the request of the petitioner to regularise the arrangement inasmuch as the petitioner already put up a construction by asking the petitioner to pay the ground rent which would be equivalent to fair rent for the area in occupation of the petitioner as the petitioner has already put up construction there and is in occupation of the property. All rights of the petitioner will be subject to the final outcome of the proceedings in R.P.No.303 of 2017 before the first respondent Commissioner unless the case of the petitioner is considered favourably by the temple.

9. The writ petition stands disposed of with the above observations. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (RTI)

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/ /2022

Sub Assistant Registrar(CS)

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To

- 1.The Commissioner,
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Chennai.
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Kasivisvanatha Thirukovil,
Cumbum.



+1 CC to M/s.C. GUHASEELARUPAN, Advocate (SR-19979[F] dated 21/04/2022)

+1 CC to M/s.SPL.GP (SR-20100[F] dated 21/04/2022)

+1 CC to M/s.K. PRABAKARAN, Advocate (SR-20222[F] dated 21/04/2022)

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RD(17.05.2022) 4P 8C