



WEB COPY



W.P.No.7942 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2023

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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

W.P.No.7942 of 2023

and

W.M.P.No.8190 of 2023

M.K.Jahir Hussain
S/o.Cader Mohideen
No.15/8, Shop Nos.3 & 4
No.25/40, Venkatachala Naicken Street
Pudupet, Chennai 600 002.

... Petitioner

Vs.

1.The Commissioner
Hindu Religious and Charitable Endowment Department
No.119, Nungambakkam High Road
Chennai 600 034.

2.Joint Commissioner
Hindu Religious and Charitable Endowment Department
No.119, Nungambakkam High Road
Chennai 600 034.

3.The Executive Officer
Komeleeswaran Temple
Komelesswaran Pettai
Chennai 600 002.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance
of Writ of Mandamus directing the respondents especially the first respondent,



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The Commissioner, Hindu Religious and Charitable Endowment, No.119, Nungambakkam High Road, Chennai 600 034 to pass orders on the basis of G.O.Ms.HR&CE No.340 dated 06.08.2007 on the representation of the Petitioner dated 19.09.2022.

For Petitioner : Mr.M.Liagat Ali

For Respondents : Mr.N.R.R.Arun Natarajan
Special Government Pleader

ORDER

This Writ Petition has been filed seeking direction to the first respondent to pass orders on the basis of G.O.Ms.HR&CE No.340 dated 06.08.2007 on the representation of the Petitioner dated 19.09.2022.

2.One Saraswathi Ammal was a tenant under the temple and the temple was declared as scheduled temple under Section 46 (3) of the Tamil Nadu Hindu religious and Endowments Act and it is under the direct the management of the Executive Officer viz., 3rd Respondent herein. The larger extent of the piece of land was the subject matter of O.S.No.1972 of 1973, filed by the 3rd Respondent against the principal tenant Tmt.Saraswathi Ammal for eviction. The same was decreed and execution proceedings has been filed before the



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learned X Judge, City Civil Court and the same is pending.

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3.The Petitioner herein is the sub-tenant under the Saraswathi Ammal and the said Saraswathi Ammal left the place long before. The Petitioner herein made several representation to the Respondents for regularise his tenancy as a direct tenant and in fact on the representation made by the Petitioner herein, by proceedings in Na.Ka.No.3053/2017/J2(1), dated 07.04.2017 recommendation was made to the 3rd Respondent for regularisation of tenancy in favour of the Petitioner, subject to payment of arrears of rent by the Petitioner. However, so far, no orders has been passed. Hence this Petition.

4.Learned counsel for the Petitioner draw my attention to the proceedings of the Commissioner Office in Na.Ka.No.3053/2017/J2(1), dated 07.04.2017, which refers the audit report dated 22.03.2014 and Joint Commissioner's report dated 24.03.2017, would contend that in the event of request of Petitioner's tenancy, impugned notice cannot be sustainable in law.

5.Heard the learned counsel appearing for the Petitioner and the learned



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Special Government Pleader appearing on behalf of Respondents 1 to 3.

6.Learned Special Government Pleader would contend that as per the accounts maintained by the Temple the rental arrears comes to Rs.1,33,800/- and the learned counsel for the Petitioner seeks time to make payment, since his representation for regularisation of tenancy is pending before the Commissioner. The learned counsel for the Petitioner also relied upon G.O.Ms.No.340 HR & CE Department, dated 06.08.2007.

7.On considering the above said submissions made by either side and the recommendation made on 07.04.2017 by the Chief Audit Officer, HR & CE Department, Chennai, I find that the Petitioner has made *prima facie* case to regularise the tenancy and hence I am inclined to allow this Writ Petition, on condition that the Petitioner shall pay the rental arrears of Rs.1,33,800/- to the authorities concerned, within a period of six weeks from today (17.03.2023) and on such payment, the 1st Respondent shall consider the request of the Petitioner made in his representation dated 19.09.2022 in the light of G.O.Ms.No.340 dated 06.08.2007 and recommendation made by the Chief



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Executive Officer dated 07.04.2017, within a period of eight weeks from the date of receipt of payment.

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8.In fine, this Writ Petition is allowed to the extent indicated above. No costs. Consequently, connected Miscellaneous Petition is closed.

17.03.2023

Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order

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RMT.TEEKAA RAMAN.J,

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