



WEB COPY



WA No.3049 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2023

CORAM

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WA No.3049 of 2021

R.Gopalakrishnan

...

Appellant

Vs

1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai 600 034.

2.The Executive Officer/
Joint Commissioner of H.R. & C.E.,
Arulmighu Kapaleeswarar Thirukkivil
Mylapore, Chennai 600 004

...

Respondents

Prayer: Writ appeal filed under Clause 15 of the Letters Patent to set aside the order in WP No.3913 of 2021 dated 23.02.2021.

For the Appellant

:: Mr.A.R.Suresh

For the Respondents

:: Mr.N.R.R.Arun Natarajan
for the first respondent

Mr.P.Wilson Topaz,
for the second respondent



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JUDGMENT

(Made by the Hon'ble Acting Chief Justice)

This writ appeal is directed against the order passed by the learned Single Judge in WP No.3913 of 2021 dated 23.02.2021.

2. The appellant has earlier filed WP No.27468 of 2019 for issuance of a Writ of Mandamus directing respondents 2 and 3 therein to consider the representation of the appellant dated 15.05.2019 and conduct an enquiry after affording opportunity to the appellant herein with respect to sealing of the property bearing No.53, G.N.Chetty Street, Mylapore, Chennai 600 004, and again to lease the property to him.

3. When the said writ petition came up for hearing on 27.09.2019, learned Special Government Pleader producing an order dated 13.09.2019 submitted that the appellant's request for removing the lock and seal and to permit him to open the premises was already rejected by the appellant for the reason that out of 1880 sq.ft., the house portion occupied by the appellant is only 885 sq.ft., and out of the remaining portion, 100 sq.ft. was let-out to a grocery shop and 80 sq.ft. was sub-let to a tailor shop. When this aspect was not denied by the appellant, the learned Single Judge dismissed the writ petition. Challenging the order dated 13.09.2019, the appellant has filed WP No.3913 of 2021, which was dismissed.



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4. The learned counsel for the appellant would submit that the appellant at no point of time had sub-let or sold any portion of the land belonging to the respondents, to any third party, without any prior permission, and no opportunity whatsoever has been given to substantiate his case that no alienation of the leasehold property has taken place, therefore, the impugned order has to be set aside.

5. The learned Special Government Pleader appearing for the respondents would submit that a detailed counter-affidavit has been filed in WP No.27468 of 2019, alleging that out of 1880 sq.ft., the house portion occupied by the appellant is only 885 sq.ft., and in the remaining portion, 100 sq.ft. was let out to a grocery shop and 80 sq.ft. was sub-let to a tailor shop. This serious allegation has not been denied by the appellant and that was the reason why the learned Single Judge has dismissed the writ petition. We also find merits on the reasonings given by the learned Single Judge.

6. In such circumstances, we do not find any error or infirmity in the impugned order passed by the learned Single Judge. The writ appeal fails and the same is dismissed. No costs. Consequently, CMP No.21011 of 2021 is closed.



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(T.R., ACJ.) (D.B.C., J.)
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Index : Yes/No
Neutral Citation : Yes/No
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T.RAJA, ACJ,
and
D.BHARATHA CHAKRAVARTHY, J.

(tar)

To
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