



WEB COPY



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.16806 of 2023

G.Ravi

Petitioner

VS.

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

2.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Kottaimari Amman Temple Campus,
Near Old Bus Stand,
Salem – 636 001.

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Sengunthar Thirumana Mandapam,
Kumarasamypettai,
Pennaragam Road,
Dharmapuri – 636 701.

4.The Executive Officer,
Arulmigu Selliyyamman Mariyamman Temple,
Dharmapuri.

5.K.Soliayappan

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for
<https://www.mhc.tn.gov.in/judis>
issuance of a Writ of Mandamus, directing the 1st respondent to consider the



petitioner's representation dated 08.03.2023 and consequently direct the the respondents to de-seal the subject premises and hand over possession to the petitioner in order to enable the petitioner to run his business.

For Petitioner : MrS.Ambika

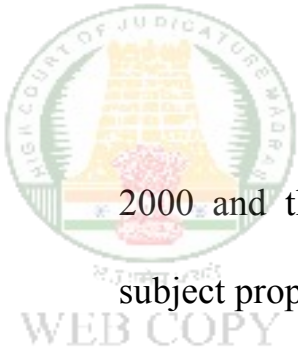
For Respondents : Mr.N.R.R.Arun Natarajan
Special Government Pleader for R1 to R4

ORDER

This writ petition has been filed for issue of writ of mandamus directing the 1st respondent to consider the representation made by the petitioner on 08.03.2023 and to de-seal the property and permit the petitioner to run the business in the subject property.

2.Heard Ms.S.Ambika, learned counsel appearing on behalf of the petitioner and Mr.N.R.R.Arun Natarajan, learned Special Government Pleader appearing on behalf of the respondents 1 to 4.

3.It is an admitted case of the petitioner that the subject property belongs to the Arulmigu Selliyamman Mariyamman Temple, Dharmapuri which is under the administration of the HR & CE Department. The property measuring an extent of 1310 Sq.Ft. was given on lease in favour of the 5th respondent. He had put up a construction to an extent of 460 sq. ft. and was running a business. The 5th respondent in turn had sublet the constructed portion to the petitioner in the year



2000 and the petitioner was running a service and spare parts workshop in the subject property for the last 23 years.

4.The Joint Commissioner initiated proceedings under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (herein after referred to as “the Act”) and a final order came to be passed on 01.06.2022 directing the petitioner to vacate and handover the possession of the shop. Aggrieved by the same, the petitioner filed R.P.No.144 of 2022 and the same is pending before the Commissioner of HR & CE Department. In the meantime, the shop has been locked and sealed and it is under the control of the authorities.

5.During the pendency of the Revision Petition, steps were taken to bring the entire property for auction in order to lease the same in favour of the successful bidder. The auction is slated to be held today. The petitioner made a representation dated 08.03.2023 to the 1st respondent requesting the 1st respondent to accept the entire arrears of lease and to remove the lock and seal in the property and to restore possession. Since this representation was not considered, the present writ petition has been filed before this Court.

6.In the considered view of this Court, when the revision petition is pending before the Commissioner and Section 81(2) of the Act enables the Commissioner to



pass an interim order pending the proceedings, the petitioner ought to have worked out his remedy before the Commissioner. A writ petition cannot be filed for the sake of getting interim order when the main proceedings are pending before the Commissioner of HR & CE Department. The auction is slated to be held today and the petitioner has moved the writ petition for admission today. This Court is not inclined to grant the relief as sought for by the petitioner, since the petitioner does not have the legal right and there is no corresponding duty on the part of the 1st respondent to consider the representation made by the petitioner. In any case, the shop is now under the lock and seal and at the best, it is left open to the petitioner to participate in the auction and submit the bid.

7. In the light of the above discussion, this Court does not find any merits in this writ petition and accordingly, the same is hereby dismissed. There shall be a direction to the 1st respondent to dispose of R.P.No.144 of 2022, within a period of six weeks from the date of receipt of copy of this order. No Costs.

06.06.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
ssr



To

1. The Commissioner,
Hindu Religious and Charitable Endowment Department,
No.119, Uthamar Gandhi Road,
Nungambakkam,
Chennai – 600 034.
2. The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Kottaimari Amman Temple Campus,
Near Old Bus Stand,
Salem – 636 001.
3. The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Sengunthar Thirumana Mandapam,
Kumarasamypettai,
Pennaragam Road,
Dharmapuri – 636 701.
4. The Executive Officer,
Arulmigu Selliyaṁman Mariyaṁman Temple,
Dharmapuri.



WEB COPY

6



N. ANAND VENKATESH, J.

SSR

W.P No.16806 of 2023