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W.P.No.19459 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.09.2023

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THE HONOURABLE MR. JUSTICE S.SOUNTAR

W.P No.19459 of 2023
and W.P No.18719 of 2023

R. Jothi

...Petitioner

Vs.

1.The Joint Commissioner -I,
Hindu Religious and Charitable Endowments Department
Padi, Chennai -600 050.

2.The Asst. Commissioner,
Hindu Religious and Charitable Endowments Department
Padi, Chennai -600 050.

3.The Chairman,
Board of Trustees,
A/m.Egambareshwarar Temple,
Mint Street, Chennai – 600 003.

4.The Executive Officer,
A/m.Egambareshwarar Temple,
Mint Street, Chennai – 600 003.

..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration, declaring the illegal and unlawful eviction of the shop of the petitioner, measuring 91.2 sq.ft situated abutting the



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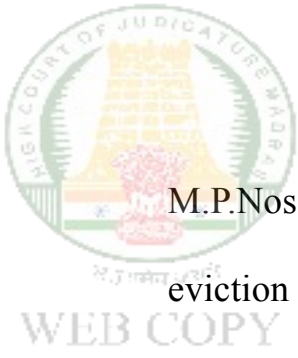
premises of A/m.Egambareshwarar Temple at No.315, Mint Street, Chennai – 600 003, by the respondents 2 to 4 on 09.06.2023 is illegal and unlawful and directing the respondents to implement the Resolution No. 154 dated 01.04.2023 by allotting the alternate site in the temple premises for the business of the petitioner, by consider the representations dated 16.06.2023 and 21.06.2023 made by the petitioners to the respondents in accordance with law within a time frame as may be fixed by this Hon'ble court.

For Petitioner	: Ms.G. Sumitra
For Respondents	: Mr.N.R.R. Arun Natarajan, Special Government Pleader

ORDER

The petitioner seeks issuance of a writ of declaration declaring the eviction of the petitioner from the place abutting Door No.315, Mint street, Chennai is illegal and unauthorized and also seeks further direction to respondents to implement the Resolution No.154 dated 01.04.2023 passed by the Board of Trustees along with the Executive authorities.

2. It is the case of the petitioner that he is a tenant of the property belonged to the 4th respondent temple. The 4th respondent initiated eviction proceedings against the petitioner under Section 78 of HR & CE Act in



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M.P.Nos.6, 9 to 12 of 2022 on the file of 1st respondent. During pendency of eviction proceedings, the 3rd respondent passed a resolution in Resolution No.154 dated 01.04.2023 agreeing for allotment of alternate site to the petitioner if the petitioner surrender the possession of all the 5 shops. It was also resolved that the 4th respondent can also withdraw eviction proceedings initiated against the petitioner.

3. It is the case of the petitioner that without offering any alternate site to the petitioner, the respondents 2 to 4 suddenly evicted the petitioner from the place abutting Door No.315, Mint street, Chennai where he had put up a temporary bunk shop to run his business. Aggrieved by the same, the petitioner has come up with this writ petition.

4. As far as the resolution passed by the 3rd respondent is concerned, it is in the nature of settling a dispute under litigation and therefore a resolution passed by the 3rd respondent without getting sanction from the Commissioner of HR & CE is not valid. Under Section 43 of HR & CE Act, the trustees of the temple are not entitled to settle the dispute under litigation without getting



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sanction from the Commissioner of HR & CE Department. Therefore, the prayer sought for by the petitioner to implement the resolution cannot be accepted.

5. Mr.N.R.R.Arun Natarajan, learned Special Government Pleader appearing for the respondents, on written instructions submits that 4th respondent has initiated steps for auctioning 4 shops in alternate site by addressing a letter to 1st respondent on 08.07.2023. Whenever the auction is conducted by the 4th respondent in respect of the shops covered by his letter dated 08.07.2023, the petitioner is entitled to participate in the auction.

6. In view of the statement made by the learned Special Government Pleader for the respondents 1 to 4 that 4th respondent is going to conduct auction in respect of 4 shops in alternate sites, the petitioner is entitled to participate in the auction. Till the auction is conducted to enable the petitioner to participate in the auction for alternate site, the possession of the petitioner where he is running a temporary bunk shop abutting Door No.315, Mint Street, Chennai shall not be disturbed.



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7. At this juncture, the learned Special Government Pleader for the respondents submits that the petitioner may be directed to pay a nominal amount towards use and occupation of the place in which he is running temporary shop.

8. The learned counsel for petitioner submits that earlier petitioner was paying Rs.1000/- as rent for the shop in his occupation. Taking into consideration the facts and circumstances of the case and to balance rights of both the parties, the petitioner is directed to pay a sum of Rs.1000/- per month to the 4th respondent towards use and occupation from August 2023 to till date of auction. Once auction of above mentioned four shops are over, irrespective of outcome, the petitioner shall vacate his temporary shop. If petitioner failed to vacate or commits default in payment of amount as directed, it is open to 4th respondent to take further action in accordance with law.



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9. With the above observations, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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S.SOUNTCHAR, J.
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