



W.P.No.20463 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2023

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.20463 of 2023

K.R.Durairaj

... Petitioner

VS.

1.The Commissioner,
Hindu and Religious Charitable Endowments Department,
Nungambakkam,
Chennai-17.

2.Arulmighu Kailasanathur Thirukkcoil,
Rep. by its Executive Officer,
Office at Arulmighu Ellaiamman Temple,
Veeraswamy Street,
Periamet,
Chennai-600 003.

... Respondents

PRAYER: Writ Petition is filed Under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 1st and 2nd respondents to remove the flex board affixed by the 2nd respondent in the leased out property to the petitioner in Survey No.8 situated at Poonamalee High Road, Vanagaram Village, Saidapet Taluk, Chengelpet District based on his representation dated 29.05.2023.



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For Petitioner : M/s.Subash Law Office

For Respondents : Mr.N.R.R.Arun Natarajan
Special Government Pleader (HR & CE)

ORDER

The petitioner herein has come up with this writ petition seeking issue of writ of Mandamus, directing the respondents to remove flex board fixed by the 2nd respondent in the property of the 2nd respondent let out to the petitioner in Survey No.8 situated at Poonamallee High Road, Vanagaram Village, Saidapet Taluk, Chengelpet District.

2. According to the petitioner, he is a lessee of the property in Survey No.8 situated at Poonamallee High Road, Vanagaram Village, Saidapet Taluk, Chengelpet District. Admittedly, the property belongs to the 2nd respondent/Temple.

3. Earlier, the 2nd respondent instituted a suit for ejectment against the petitioner in O.S.No.777 of 1995 on the file of the Principal District Munsif Court, Poonamallee. The said suit was dismissed on 25.06.2009. Challenging the said judgment, an appeal was filed by the 2nd



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respondent/Temple in A.S.No.12 of 2011 and the same was also dismissed for default on 15.02.2023. Thereafter, the petitioner herein filed a writ petition in W.P.No.4537 of 2011 seeking to issue a Writ of Prohibition forbearing the respondents therein from interfering with his possession and enjoyment of the land in Survey No.8 situated at Poonamallee High Road, Vanagaram Village, Saidapet Taluk, Chengelpet District.

4. In the said writ petition, the Chennai Metro Rail Limited which was impleaded as 3rd respondent had taken a stand that possession of the land in Survey No.8 was taken over by Chennai Metro Rail Limited for laying metro line and after completion of the project, the possession of the land was handed over to the 2nd respondent/Temple, which was arrayed as 1st respondent therein.

5. This Court after recording the said submissions, dismissed the said writ petition by directing the petitioner to approach the Civil forum.

6. Now, the petitioner has come up with this writ petition seeking



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issuance of Writ of Mandamus, directing the respondents to remove the flex board fixed by them in the above said land. It was mentioned in the said flex board that the property in Survey No.8 belongs to the 2nd respondent/Temple and in case of trespass, penal action would be taken against the trespassers.

7. This Court while considering the earlier writ petition filed by the petitioner, after recording the submission made by the Chennai Metro Rail Limited that the possession of the property was handed over to the 2nd respondent/Temple, directed the petitioner to approach the Civil Forum for redressal of his grievance.

8. Instead of approaching the Civil Court to establish his right, the petitioner is not entitled to come before the Writ Court seeking above said prayer.

9. The learned counsel appearing for the petitioner by taking this Court to the receipt issued by the 2nd respondent dated 31.12.2020 receiving Rs.5,00,000/- from the petitioner and a letter issued by 2nd respondent addressed to Tamil Nadu Electricity Board giving No Objection for grant of



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electricity service connection to the petitioner, submitted that the petitioner is in possession of the above said land.

10. As far as receipt issued by the 2nd respondent dated 31.12.2020 is concerned, the said receipt was issued without prejudice to the right of the temple and the amount was treated as damages for use and occupation. In such circumstances, the same would not advance the case of the petitioner to prove his present possession of land. As far as letter said to have been given by the 2nd respondent on 02.01.2021 saying no objection for giving electricity service connection to the petitioner, the learned Special Government Pleader appearing for the respondents, on instructions, submits that the 2nd respondent-Office did not issue any letter on 02.01.2021. He also submitted that in this regard an enquiry is contemplated and in case of adverse finding, appropriate action would be taken against the concerned officer.

11. This Court in the earlier writ petition filed by the petitioner recorded the statement made by the Chennai Metro Rail Limited that possession of the property was handed over to the Temple. The petitioner



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was also relegated to the Civil Court for redressal of his grievance. The said order has attained finality, as petitioner has not challenged the same.

12. In view of the same, this Court is not inclined to entertain this writ petition. If the petitioner has got any grievance, it is always open to him to workout his remedy in the manner known to law before the Civil Court.

13. Accordingly, the writ petition is dismissed. No costs.

18.07.2023

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
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To

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S.SOUNTHAR, J.

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