



Writ Petition No.21243 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED :19.07.2023

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

Writ Petition No.21243 of 2023
and W.M.P.No.20657 of 2023

R.Rajkumar

...Petitioner

Vs

1. The Commissioner,
Hindu Religious and Charitable Endowments,
No.119, Uthamar Gandhi Road,
Thousand Lights West,
Nungambakkam,
Chennai – 600 034.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowments,
Chennai Zone – I,
Yadava Street,
Gopal Nagar, Chennai – 600 050.

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowments,
Chennai – 600 050.

4.The Executive Officer,
Arulmigu Dharmaraja Thirukovil,
Seven Wells,
Chennai - 600 001.

... Respondents



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PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, directing the 2nd respondent to de-seal the commercial shop in T.S.No.626/8, Purasaiwakkam, Chennai – 1 and further direct the respondent to grant time stipulated by this Court.

For Petitioner : M/s.T.Sreelekha

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

O R D E R

This writ petition is filed by the petitioner seeking a direction to the 2nd respondent to de-seal the commercial shop in T.S.No.626/8, Purasaiwakkam, Chennai and also to direct the respondents to grant time to enable the petitioner to pay arrears of rent.

2. It is seen from the affidavit filed in support of the writ petition and also the proceedings of 2nd respondent included the typed set of papers that eviction proceeding has been initiated against the petitioner under Section 78 of HR and CE Act and eviction order was passed on 27.04.2023 against the petitioner in M.P.No.2 of 2023.



3. In pursuance of the eviction order passed against the petitioner in the above said proceedings, the 4th respondent had taken possession of the property and locked the premises. Aggrieved by the same, the petitioner is before this Court, seeking a direction to de-seal the premises which was in his occupation.

4. Even, as per admitted case of the petitioner, the Commercial shop that was in occupation of the petitioner belongs to the 4th respondent temple and he got transfer of the alleged lease hold right from the original lessee of the temple.

5. Mr.N.R.R.Arun Natarajan, learned Special Government Pleader appearing for the respondents 1 to 4 produced the files relating to the eviction proceedings taken against the petitioner. Perusal of the files produced by the Special Government Pleader would suggest that the petitioner was issued with proper notice before initiating proceedings under Section 78 of HR and CE Act. He also entered appearance through a counsel, thereafter remained ex-parte. It is also seen, subsequent to the eviction order, the petitioner filed Copy Application for getting copy of the



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order. In these circumstances, the submission made by the petitioner before this Court, as if, the eviction order was passed against him behind his back cannot be accepted.

6. Against the eviction order passed under Section 78 of HR and CE Act, an appeal shall lie to the Commissioner of HR and CE under Section 79(2) of the said Act. Apart from that Appeal, the person aggrieved by the order can also file a Civil Suit before the regular Civil Court to establish his right.

7. In view of the availability of alternative remedy to the petitioner, this Court is not inclined to entertain this writ petition and accordingly, the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

19.07.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
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S.SOUNTHAR, J.



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