



W.P.No.29567 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

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R.Prathap

... Petitioner

Vs

1. The Commissioner,
HR & CE Department,
Chennai – 600 013.
2. The Joint Commissioner,
HR & CE [Administration] Department,
Chennai – 600 004.
3. The Assistant Commissioner,
HR & CE [Administration] Department,
Chennai – 600 034.
4. The First Person / Executive Officer
Arulmigu Kabaleeswarar Thirukoil,
Mylapore, Chennai.

... Respondents

Prayer:- Writ Petition is filed, under the Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records



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relating to the impugned notification of Public Auction held on 28.09.2022 vide Paper Publication dated 10.09.2022 by the 4th respondent in response to the Order passed by the second respondent in Na.Ta.Na.Ka. No.5739/2013/A2 dated 04.03.2016, quash the same and consequently direct the respondents herein to remove the lock and seal dated 10.07.2021 [no Order was served to the petitioner of the dwelling house premises bearing door No.8/132, East Madha Koil Street, Royapuram, Chennai – 600 013 and direct the respondents herein to hand over the possession of the premises bearing Door No. 8/132, East Madha Koil Street, Royapuram, Chennai – 600 013 to the petitioner.

For Petitioner : Mr.S.Ramajayam

For Respondents : Mr.N.R.R.Arun Natarajan
Special Government Pleader – R1 to R3

Mr.R.Nalliyappan – R4

ORDER

This Writ Petition has been filed to quash the impugned notification of Public Auction held on 28.09.2022 vide Paper Publication dated 10.09.2022 by the 4th respondent in response to the Order passed by the second respondent dated 04.03.2016 and consequently direct the respondents herein to remove the lock and seal dated 10.07.2021 and direct



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the respondents herein to hand over the possession of the premises to the petitioner.

2. The case of the petitioner is that the subject property has been allotted to one Mr.S,Venkatachalam, the great grand father of the petitioner for a period of 99 years. Subsequent to the demise of the original allottee, the legal heirs are in possession of the property and paying necessary rent to the authorities concerned. While so the third respondent sent a notice to the petitioner that the petitioner encroached upon the temple property. The Second respondent by an Order dated 04.03.2016 directed the petitioner to hand over the possession of the property as he is the encroacher of the property. On 10.07.2021 the respondents sealed the dwelling house of the petitioner.

3. The learned counsel appearing for the petitioner submitted that the arrears is only about Rs.3,40,216/- and out of the said amount he is ready to pay 50% of the amount immediately and the remaining 50% of the amount will be paid within a period of four months in two instalments. It is also submitted by the petitioner that he has given an application under



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section 77[A] of the Transfer of Property Act to cancel the settlement deeds executed in his favour and the same is pending. Besides, he has also submitted that he will not claim any right over the property.

4. In such view of the matter, the petitioner is directed to pay 50% of the amount immediately to the respondent and the remaining 50% of the amount shall be paid within a period of four months in two instalments. On payment of the 50% of the arrears, the respondent shall desal the first floor. On payment of the entire amount, the petitioner shall enter into a lease deed with the respondent temple and the respondent shall fix the fair rent as per law and petitioner shall continue to pay the fair rent fixed by the respondent and the petitioner shall not claim any right over the property and he shall cancel the settlement deed executed in his favour.

5. With the above direction, this Writ Petition is disposed of. Consequently connected miscellaneous petitions are closed. No costs.

16.02.2023



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Index: Yes/No

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Neutral Citation : Yes/No

vrc

To,

1. The Commissioner [HR & CE],
Hindu Religious Charitable & Endowment Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam, Chennai.
2. The Joint Commissioner [HR & CE],
Hindu Religious Charitable & Endowment Department,
Salem.
3. The Assistant Commissioner,
Hindu Religious Charitable & Endowment,
Namakkal.



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N.SATHISH KUMAR, J.

VTC

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