



W.P.(MD)No.7127 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.03.2023

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD)No.7127 of 2023

K.S.Arumugam

... Petitioner

Vs.

- 1) The Commissioner,
HR & CE Department,
Chennai – 34.
- 2) The Joint Commissioner,
HR & CE Department,
Tirunelveli.
- 3) The Assistant Commissioner,
HR & CE Department,
Tirunelveli
- 4) The Trustee,
Arulmigu Agastheeswarar Temple,
Ambasamudram,
Tirunelveli District.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Mandamus directing the 1st respondent to pass appropriate orders in the stay application which is pending in revision petition in R.P.No.220 of 2022 D2 forthwith and till such time direct the 4th respondent not to take any steps to evict the petitioner U/s. 79 of the Tamil Nadu Hindu Religious and Charitable Endowments Act from the Shop in Door No. 14/82 at Santhai Bazaar, North Street, Ambasamudram, Tirunelveli District.

For Petitioner : Mr.D. Venkatesh

For Respondents : Mr.P. Subbaraj
Special Government Pleader
for R1 to R3

Mr.VR. Shanmuganathan for R4

ORDER

The limited prayer that is sought for in the present writ petition is for a mandamus directing the first respondent to pass orders in the stay petition pending in R.P.No.220 of 2020 D2 and till such time, direct the fourth respondent not to evict the petitioner.



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2. The facts in brief are herein below set out.

2.1. The petitioner would submit that he was a tenant under the fourth respondent and has been running a Shop in Door No. 14/82 at Santhai Bazaar, North Street, Ambasamudram, Tirunelveli District under the name and style 'Nellai Motors' dealing in the business of finance and also selling used two wheelers. The rent for the premises when the petitioner was inducted as a tenant on November 2013 was a sum of Rs. 1,000/- per month. The rent was being enhanced periodically and in the month of January 2017, the petitioner was directed to pay a sum of Rs. 1,440/- as monthly rent. The petitioner would submit that he has been requesting the fourth respondent to execute a rental agreement which was not done. As on 31.08.2018, the petitioner was in arrears of rent for a period of 10 months. In the meantime, a sum of Rs.4,600/- was fixed as monthly rent by the Committee constituted under the Tamil Nadu Hindu Religious and Charitable Endowments Act (herein after referred as 'the Act'). The petitioner objected to the enhanced rent and failed to pay the same. On 31.01.2019, the arrears of rent increased to Rs.1,13,100/-. The



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fourth respondent therefore gave an intimation to the third respondent to initiate action against the petitioner under Section 78(1) of the Act and treat the petitioner as an encroacher. Based on the report from the third respondent, the second respondent initiated proceedings and by order dated 05.08.2022, held that the petitioner was an encroacher and further the petitioner was directed to pay a sum of Rs.1,54,500/- towards arrears of rent up to October 2019.

2.2. The petitioner would submit that he has preferred a revision petition before the first respondent under Section 21 of the Act and the same has been taken on file in R.P.No.220 of 2020. However, the revision petition was not taken up for hearing. Meanwhile, the fourth respondent is taking coercive steps to evict the petitioner. Since the first respondent has not taken up the stay petition, the petitioner is unable to get any interim order. Therefore, he has come forward with the writ petition.



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3. The learned Special Government Pleader appearing for the respondents 1 to 3 would submit that the next hearing date of the revision petition is 12.07.2023.

4. The petitioner who has challenged the orders in time is unable to get the Authority hear his stay petition, which is likely to cause grave hardship and prejudice to him. Therefore, in the interests of justice, the writ petition is disposed of with a direction to the first respondent to take up and dispose of the stay petition on the next hearing date i.e., on 12.07.2023. Till such time, there shall be an interim order of stay. In case, the first respondent does not pass orders in the stay petition on 12.07.2023, then, the interim order granted herein shall be extended automatically till the next hearing date until the stay petition is taken up and disposed. No costs.

30.03.2023

NCC:Yes/No

Index:Yes/No

Speaking/Non-speaking order

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P.T.ASHA, J.

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To

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- 3) The Assistant Commissioner
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