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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.07.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD)No.8136 of 2023
and
W.M.P(MD)No. 7523 of 2023

K.Sadhasivam

... Petitioner

Vs.

1. The Executive Officer,
Arulmigu Magadeva Samy Temple,
Raja Mill Road, Madurai-10
2. Amma Pillai
3. T.Nagaraj
4. M.Sarawathi
5. S.Karthika

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a ***Writ of Certiorari***, to call for the records of the 1st respondent, dated 15.02.2023 quash the same as the same is arbitrary, ultravires.

For Petitioner : Mr.R.G.Shankar Ganesh

For Respondents : Mr.S.Manohar, for R-1

Mr.A.Ganesan, for R-2 to R-5



ORDER

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This writ petition is filed for *Writ of Certiorari* to quash the impugned order, dated 15.02.2023.

2. Heard Mr.R.G.Shankar Ganesh, the Learned Counsel appearing for the petitioner, Mr.S.Manohar, the Learned Counsel appearing for the 1st respondent and Mr.A.Ganesan the Learned Counsel appearing for the respondents 2 to 5 and perused the material documents available on record.

3. The contention of the petitioner is that he is a tenant under the 1st respondent, but there is a title dispute between the 1st respondent and 2 to 5 respondents.

4. The petitioner is in possession of the said land from 1974 onwards. Since there was a dispute between the respondents, the petitioner has failed to pay rent from 01.07.2016 to 06.11.2022. On 06.11.2022 and hence the 1st respondent initiated proceeding and evicted the petitioner from the said place. Through the impugned order the 1st respondent has directed the petitioner to pay the arrears of rent of Rs.7,51,984/-, failing which action would be initiated under section 79(c), hence the petitioner has filed the present writ petition.



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5. It is seen from the records that the petitioner had filed a suit in O.S.No.728 of 2017 on the file of Additional District Court, Madurai inter alia praying to discharge his liabilities when there is rival claim and injunction. There is no interim order and the said suit is pending. The husband of the 2nd respondent namely Thangamani had filed suit in O.S.No.163 of 2018 on the file of Munsif Court, Madurai for declaration. After the demise of the said Thangamani the 2nd respondent being the wife of the deceased and the 3 to 5 respondents being children of the deceased are impleaded.

6. The petitioner cannot take advantage of the title dispute and refrain from paying the rent. Therefore, this Court passes the following order:

- i. The petitioner is directed to deposit the undisputed rent for a period from 01.07.2016 to 06.11.2022 in three installments.
- ii. As far as the disputed rent is concerned, the petitioner shall deposit 25% of the increased amount in the suit filed by the said Thangamani in O.S.No.163 of 2018 on the file of Munsif Court, Madurai.
- iii. The 1st respondent is directed to serve the particulars along with calculation sheet which was arrived to fix increased fair rent.



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iv. On receipt of the same, the petitioner may challenge the same before the appropriate authority and the impugned order is kept in abeyance.

v. The fixation of fair rent proceedings shall not be cited as evidence by the 1st respondent in the declaration suit filed by the respondent 2 to 5. The Civil Court shall independently analyze the evidence regarding the title of the suit property. The amount that would be deposited by the petitioner would be decided based on the outcome of the suit.

7. With these observations and directions, this Writ Petition is disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

24.07.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No

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To

The Executive Officer,
Arulmigu Magadeva Samy Temple,
Raja Mill Road, Madurai-10



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S.SRIMATHY, J.

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W.P.(MD).No.8136 of 2023

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