



W.P.(MD) No.9271 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.04.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.9271 of 2023

R.Rajkumar

.. Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable
Endowments Department,
No.119, Uthamar Gandhi Road,
Nungambakkam, Chennai-600 034.

2.The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
Sivagangai Division,
Muthusamy Street, Sivagangai.

3.The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Department,
Five Junction Road, Paramakudi.

4.The Executive Officer,
Arulmighu Koppudaiyanayagi Amman Thirukovil,
Karaikudi, Sivagangai District.

.. Respondents



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Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus directing respondents 2 to 4 to allot the shop of the 4th respondent temple with correct extent of 38.41 sq. ft to the petitioner as per order of the 2nd respondent in Na.Ka.No. 1748/2022/A3 dated 20.09.2022 and consequently direct respondents 2 to 4 to provide No Objection Certificate to the petitioner to get electricity connection for the said shop by considering the petitioner's representations dated 09.1.2023 and 28.02.2023.

For Petitioner : Mr.T.Veerakumar
For RR1 to 3 : Mr.P.Subbaraj
Special Government Pleader
For R4 : Mr.R.Shankar Ganesh

ORDER

The petitioner has approached this Court for a Mandamus directing respondents 2 to 4 to allot the shop of the fourth respondent-temple with correct extent of 38.41 sq. ft in keeping with the order of the second respondent dated 20.09.2022.

2. It is the case of the petitioner that right from the time of his grandfather, they have been tenants in respect of the fourth respondent-



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temple. His grandfather was running a petty shop and thereafter, his father Ramu continued in the said shop. In the year 2003, the road was extended and therefore, the petty shop was demolished. However, the trustees of the temple gave assurance to his father that they will allot a temporary shop, since his father was a physically challenged person and the sole bread-winner of the family. A small petty shop was also allotted to his father. On 01.07.2008, his father Ramu died and since then the petitioner is running the shop in the name and style of Muthu Cool Drinks. The petitioner and before him his father and grandfather have been very regular in the payment of the rents.

3. All of a sudden, the fourth respondent refused to receive the rent stating that they are going to regularise the shops. Therefore, on 11.07.2018, the petitioner had made a detailed representation to the fourth respondent to allot the shop and consider his family situation. After negotiations, the fourth respondent had given a report on 20.04.2019 to regularise the lease in respect of the shop. The petitioner would submit that during the COVID period, he was unable to pay the



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rents and therefore, he was directed to pay a sum of Rs.1,27,260/- by notice dated 13.07.2022, which amount he has also paid on 08.08.2022. The shops were auctioned and the petitioner had also participated in the same and succeeded in a bid for lease for a rent of Rs.1,160/- per month. He was awarded lease of a shop, which was stated to measure 38.41 sq. ft. After the allotment and after his taking possession of the same, the petitioner came to know that the extent was only 28.41 sq. ft. He therefore, requested the fourth respondent to allot the above shop with the correct extent and therefore, since the respondents were not conceding to his request, he has come forward with the present writ petition.

4. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for respondents 1 to 3.

5. The shop measures 38 sq. ft. The petitioner has taken possession of the property even in the month of October, 2022. If the measurement of the shop was of great significance, the petitioner ought



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to have requested for a physical measurement before taking possession of the property. Having taken possession of the property as allotted, the petitioner cannot now invoke the jurisdiction of this Court for a direction to the respondents to allot 38.41 sq. ft. in the shop now allotted to him. Therefore, the relief claimed is not sustainable. Accordingly, this Writ Petition is dismissed. No costs.

21.04.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes

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To

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2.The Joint Commissioner,
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P.T.ASHA, J.

abr

3.The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Department,
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