



W.P.(MD) No.13046 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.06.2023

CORAM

THE HONOURABLE Ms.JUSTICE P.T.ASHA

**W.P.(MD) No.13046 of 2023
and
W.M.P.(MD) Nos.11041 and 11042 of 2023**

R.Saravanan

... Petitioner

/vs./

1.The Commissioner,
Trichy Corporation,
Trichy.

2.The Assistant Commissioner,
Ward Committee – II,
Trichy Corporation,
Trichy.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records in connection with the impugned order passed by the 2nd respondent in Na.Ka.No.A1/01943/2022 (V.Ku.A-II) dated 18.10.2022 and quash the same.



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For Petitioner : Mr.C.Prithviraj

For Respondent : Mr.R.Baskaran, Senior Counsel for
M/S.R.B.Law Associates represented by
Mr.K.R.Kishore Ram

ORDER

The above writ petition is filed for the issue of a Writ of Certiorari calling for the records in connection with the impugned order passed by the second respondent in Na.Ka.No.A1/01943/2022 (V.Ku.A-II) dated 18.10.2022 and quashing the same.

2.It is the case of the petitioner that his grandfather, V.V.L.P.Periyasamy Chettiar had taken on lease the vacant site comprised in T.S.Nos.581 and 582, measuring an extent of 15,000 sq.ft., from the first respondent in the year 1955. Thereafter, on the demise of his grandfather, his father and the other legal heirs had inherited the same. The petitioner was in possession and enjoyment of the property and had put up a construction on his own. The petitioner would submit that he has been paying the tax for the said structure without any default.



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3.On 31.12.2004, a notice was issued by the respondents to the petitioner claiming arrears of Rs.5,37,912/- for the period from 01.04.2001 to 31.12.2004. This notice was challenged by the petitioner's father and others in a suit O.S.No. 150 of 2005 on the file of the I Additional District Munsif Court, Trichy. The petitioner herein was the fifth plaintiff in the said suit and he has been impleaded on the death of his father. The suit was decreed on 31.10.2011 and the first respondent was directed to fix the fair rent. However, the first respondent had not complied with the decree.

4.While so, the first respondent had issued a notice dated 15.02.2017 to the petitioner and three others for determining the tenancy and demanding possession from them. A reply dated 20.02.2017 was issued and on 03.03.2017, the respondents had sealed the premises and prevented the petitioner from entering the premises. The petitioner had thereupon filed W.P.(MD) No.5137 of 2017 challenging the notice of cancellation of lease and this writ petition is pending adjudication. While so, the second respondent by order dated 18.10.2022 has issued a notice to the petitioner to pay a sum of Rs.1,32,52,355/-. The notice is



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issued on the basis of the order passed in I.A.No.4 of 2022 in O.S.No.467 of 2014. This is the subject matter of challenge in this writ petition.

5.The second respondent has filed a written statement for himself and on behalf of the first respondent *interalia* contending that the petitioner's grandfather had constructed a commercial building without getting any approval from the respondents and he had subleased one shop to one Joseph Raj. As soon as the respondents had come to know about the sub-lease, the lease was cancelled and the building was locked and sealed. An electricity connection was also disconnected. The petitioner had filed W.P.(MD) No.5137 of 2017 challenging the said action. Meanwhile, the petitioner colluding with the tenant, Joseph Raj had filed a suit O.S.No.467 of 2014 arraying the respondents herein as defendants 2 and 3 and the petitioner as the first defendant seeking the relief that he should not be evicted except by due process of law. In the said suit, the said Joseph Raj had filed I.A.No.461 of 2014 seeking an interim injunction restraining the defendants from interfering with his peaceful possession and enjoyment of the property and an interim stay was also granted.



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6.The respondents would submit that in the interlocutory application, the said Joseph Raj and the petitioner had fraudulently exonerated these respondents by making an endorsement and the interim injunction was granted without considering the counter of the respondents, which had been filed in the said interlocutory application. It appears that after the respondents had issued the notice to the tenants to vacate and remove the superstructure, the said Joseph Raj had filed I.A.No.4 of 2022 for punishing the respondents for not complying with the orders passed in I.A.No.304 of 2017. The trial Court had directed the said Joseph Raj to pay arrears of Rs.1,32,52,355/- within a period of two months and on receipt of the same, the respondents were directed to restore the electricity connection to deduct the amount of Rs.1,00,000/- from the salary of the respondents and to pay the same to Joseph Raj. Till date, the amount has not been paid either by the petitioner or the said Joseph Raj and therefore the present writ petition has been filed. The petitioner has totally suppressed the facts of sub-lease and the orders passed for making the payment.

7.Heard the learned counsels appearing on either side.



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8.A perusal of the affidavit filed by the petitioner would clearly show that the petitioner has not made any reference whatsoever to the suit O.S.No.467 of 2014 which has been filed by Joseph Raj except for stating that the impugned notice has been issued on the basis of the order passed in I.A.No.4 of 2022 in O.S.No.467 of 2014. The petitioner has approached this Court with unclean hands and suppression. That the petitioner has sub-leased the property to one Joseph Raj is evident from the perusal of the plaint in O.S.No.467 of 2014, where the petitioner is arrayed as the first defendant and the relief that is claimed therein is that the plaintiff's possession of the suit property shall not be disturbed except by due process of law. This clearly shows that the petitioner is not in possession of the property and further, the writ petition appears to have been filed only to circumvent the orders passed in I.A.No.304 of 2017.

9.In fine, the Writ Petition is dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

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

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