



W.P.(MD) No.14844 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.04.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.14844 of 2020

and

W.M.P(MD) Nos.12502 and 12503 of 2020

M.Thirukumaran

... Petitioner

Vs.

- 1.The Executive Officer,
Arulmigu Sangolathan Kulandalalamman Thirukkivil,
Thillai Nagar, Trichy.
- 2.The Assistant Commissioner,
Trichy Municipal Corporation,
Puthur, Trichy.
- 3.The Commissioner,
The Hindu Religious and Charitable Endowments Department,
No.119, Uthamar Ganthi Salai,
Nungampakkam, Chennai-600 034.
- 4.The Joint Commissioner,
The Hindu Religious and Charitable Endowments Department,
Trichy-620 005.

(R3 and R4 are impleaded vide Court order
dated 20.02.2023 in W.M.P(MD) No.3065 of 2023)

... Respondents



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Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order issued by the first respondent dated 18.09.2020 and quash the same and consequently, direct the respondents to permit the petitioner to continue to carry out the reconstruction works in respect of his house property at No.43, Sengolathan Kovil Street, Co-Abhisekarapuram Division, Trichy North, Trichy District.

For Petitioner : Mr.B.Jameelarasu
For R1 : Mr.C.Guhaseelarupan
For R3 & R4 : Mr.P.Subbaraj
Special Government Pleader

ORDER

This writ petition is filed for a issuance of writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order issued by the first respondent, dated 18.09.2020 and quash the same and consequently, direct the respondents to permit the petitioner to continue



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to carry out the reconstruction works in respect of his house property at No.43, Sengolathan Kovil Street, Co-Abhisekarapuram Division, Trichy North, Trichy District.

2. It is the case of the petitioner that his father, namely, Marimuthu had taken possession of a house site from its lawful owner, namely Pitchai Muthuraja and has been in possession of the same. After death of his father, the petitioner and his brother are enjoying the property without any interference. Since the house was over 50 years old, it has become dilapidated and the petitioner and his brother put up new construction. While construction was being underway, the first respondent, the Chief Executive Officer of the Arulmigu Sangolathan Kulandalalamman Thirukkovil, came to the property and instructed the petitioner not to proceed with the construction as the property belongs to the temple. The petitioner would submit that he has not encroached into the temple property and further on 03.04.2018, the petitioner had paid an arrear amount of Rs.35,500/- which is also known to the first respondent and there was no arrears of rent. However, the first respondent was treating



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the petitioner as an encroacher and had stopped him from proceeding with the construction. Therefore, the petitioner had originally filed W.P.(MD)No.7309 of 2020 for a mandamus forbearing the first respondent and his men from interfering with the reconstruction work. This Court by an order dated 13.07.2020 passed the following orders:-

3.It is seen that the land in question belongs to the first respondent Temple while the superstructure appears to have been built by the petitioner's predecessors in interest. It cannot be disputed that the planning permission will have to be obtained from the concerned authorities even for reconstructing a dilapidated house. The petitioner is not able to produce any such planning permission or approval. Therefore, the relief sought for by the petitioner cannot be granted. Even while rejecting the writ petition, liberty is granted to the petitioner herein to approach the respondents for carrying out his reconstruction work in accordance with law.

4.With this observation, the Writ Petition stands closed. No costs. Consequently, the connected miscellaneous petition is closed.



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3. After receipt of this order copy, the petitioner had made a detailed representation on 13.08.2020 to the respondents, requesting permission to carryout reconstruction work. Since there was no response, the petitioner has constrained to file the above writ petition.

4. The first respondent had filed counter *inter alia* contending that the petitioner's father was an encroacher. After demise of the said Pitchai Muthuraja, who was a tenant under the first respondent temple, the petitioner's father had illegally occupied the premises. Since he was in occupation, the temple had received the rent but he was never recognized as tenant. However, without the permission of the temple, he had proceeded to reconstruct the same. The construction was in the vacant site belonging to the temple to an extent of 585 sq.ft. Thereafter, on coming to know the same, the first respondent rushed to the spot and directing the petitioner not to proceed with the construction. The respondent would further submit that the admission of the petitioner that he had paid arrears would only go to show that the petitioner is squatting on the property belonging to the temple without paying rent.



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5. The respondent would submit that the vacant site is the temple's land and no construction can be permitted on the temple's land and they have not given permission for reconstruction. In fact, when the petitioner had started reconstruction, on the basis of the complaint of the first respondent, the police had intervened and had directed the petitioner not to proceed with the construction. Therefore, the allegation to the contrary are totally false and made only with an intention of obtaining orders from this Court. However, the second respondent would fairly concede that the Executive Officer has recommended the Commissioner to grant lease in favour of the petitioner by executing a fresh lease agreement.

6. Heard the learned counsel appearing on either side.

7. In the light of the admission of the learned counsel appearing for the Executive Officer that he has recommended that the petitioner be inducted as a tenant, direction is issued to the petitioner to make a representation/application to the third respondent with the copy marked



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to the first respondent and on receipt of the same, the third respondent shall consider as to whether they could recognize the petitioner as a lessee. The said exercise shall be completed within eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

27.04.2023

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

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To

- 1.The Commissioner,
The Hindu Religious and Charitable Endowments Department,
No.119, Uthamar Ganthi Salai,
Nungampakkam, Chennai-600 034.
- 2.The Joint Commissioner,
The Hindu Religious and Charitable Endowments Department,
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P.T.ASHA, J.

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