



W.P(MD)No.11199 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.09.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.11199 of 2015

and

M.P.(MD)Nos.1, 2 and 3 of 2015

P.Srirengan

... Petitioner

Vs.

1.The Commissioner,
Tamil Nadu Hindu Religious and
Charitable Endowments Board,
119, Uthamar Gandhi Salai,
Nungambakkam, Chennai.

2.The Executive Officer,
Joint Commissioner,
Arul Mighu Dandayuthapani Swami Temple,
Palani, Dindigul District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings of the 1st respondent in Sa.Mu.Na.Ka.No.19881/2015 M2 dated 20.05.2015 and the impugned notification issued by the 2nd respondent in his proceedings in Na.Ka.No.888/15/C3 dated 18.06.2015 and quash the



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same as illegal and consequently direct the respondents to fix the rent as per Section 34-A(1) and (2) of the Tamilnadu Hindu Religious and Charitable Endowment Act 1959 and permit the petitioner to continue as a tenant for further period of three years.

For Petitioner : Ms.H.Jesima Yasmin
For M/s.Ajmal Associates.

For Respondents : Mr.R.Ragavendran,
Government Advocate for R1.
Mr.K.Govindarajan for R2.

ORDER

Heard the learned counsel on either side.

2.The petitioner was inducted as a tenant in one of the shops belonging to the second respondent temple. This was because the petitioner was successful in the auction held on 27.05.2014. The petitioner deposited EMD of Rs.1,00,000/-. He was also required to pay monthly rent of Rs.7,600/-. An agreement was entered into between the parties on 21.07.2014. The petitioner was running a fancy store in the leased premises. The petitioner paid a sum of Rs.14,25,000/- and it was



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labeled as “contribution / donation”. The petitioner was under the bonafide impression that the lease will hold atleast for five years. However, at the end of one year, the shop was brought for fresh auction. The petitioner requested that the shop should not be re-auctioned and that he must be allowed to continue as tenant. Vide proceedings dated 20.05.2015, the Commissioner, Hindu Religious and Charitable Endowments Department, not only rejected the petitioner's request for extension of the lease period but also held that the amount of Rs.14,25,000/- paid by the petitioner will not be refunded. Challenging the said order, the present writ petition came to be filed.

3.The prayer in the writ petition is for fixing rent as per Section 34-A of the Tamilnadu Hindu Religious and Charitable Endowment Act, 1959 and for permitting him to continue as tenant for a further period of three years.

4.It is not dispute that the petitioner had to vacate the petition mentioned shop. Therefore, the writ petitioner's prayer to that extent had become infructuous.



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5.The learned counsel for the petitioner called upon this Court to mould the writ prayer and direct the second respondent to refund the sum of Rs.14,25,000/- paid by him. The learned standing counsel for the temple strongly opposed the said request. His contention is that the sum paid by the petitioner was as donation and that therefore, the question of refunding the said amount does not arise. He also pointed out that the petitioner is presently in occupation of another shop belonging to the temple and that he is in arrears to the tune of Rs.64,539/-.

6.I categorically reject the stand of the temple that a sum of Rs.14,25,000/- paid by the petitioner should be treated as donation. If the petitioner wanted to donate something to the temple, he would have put the amount either in the undiyal or paid directly to the devasthanam and obtained receipt therefor. That is obviously not the case. The auction notice itself stipulated that the successful bidder must pay the said amount as donation. The petitioner's relationship with the second respondent is not as that of devotee; it was a commercial relationship. The petitioner was a tenant and the second respondent was the landlord.



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Therefore, the question of forfeiting the amount paid by the petitioner by treating it as donation does not and cannot arise at all. I, therefore, direct the second respondent to refund the sum Rs.14,25,000/- after deducting the arrears of Rs.64,539/-. This amount shall be paid immediately and without any delay.

7.Merely because, I had directed the second respondent to refund the so-called donation amount paid by the petitioner, the second respondent shall not terminate the petitioner's lease in respect of other shop that is presently occupied by him. The petitioner will be treated on par with other lessees.

8.This writ petition is allowed on these terms. No costs. Consequently, connected miscellaneous petitions are closed.

21.09.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

ias

To:-

The Commissioner,
Tamil Nadu Hindu Religious and
Charitable Endowments Board,
119, Uthamar Gandhi Salai,
Nungambakkam, Chennai.

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(1/2)