



WEB COPY



W.P.No.3740 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2024

CORAM:

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P.No.3740 of 2020

and

WMP.No.4419 of 2020

N.Kasthuri
Proprietor, M/s.Jeevan Press
New No.62, Old No.163, Big Street
(Formerly Veeraraghava Mudali Street)
Triplicane, Chennai 600 005.

... Petitioner

Vs.

1.The Commissioner
Hindu Religious and Charitable Endowments
Nungambakkam High Road
Chennai 600 034.

2.The Joint Commissioner/Executive Officer
Arulmigu Kapalieeswarar Temple
Mylapore, Chennai 600 004.

...Respondents



W.P.No.3740 of 2020

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the second respondent to pass the order for restoring the possession and also for renewal of lease for the premises admeasuring 4952 sq.ft., in Survey No.2759, bearing New No.62, Old No.163, big street, (Formerly known as Veeraraghava Mudali Street), Triplicane, Chennai 600 010 in favour of the petitioner after the payment of entire rental arrears in agreed terms and consequently the letter of the second respondent in Na.Ka.No.149/2009/A4 dated 13.12.2019 and to grant such further or other orders or other reliefs as this Court.

For Petitioner : Mr.M.Vijay Anand

For Respondents : Mr.N.R.R.Arun Natarajan for R1
Special Government Pleader

Mr.S.Surya for R2
for M/s.A.S.Kailasam Associates

ORDER

The petitioner herein seeks a direction to the second respondent to renew the lease for the premises admeasuring 4952 sq.ft., in Survey No.2759, bearing New No.62, Old No.163, Big Street, (Formerly Known as Veeraraghava Mudali Street), Triplicane, Chennai 600 010, in favour of the petitioner after the payment of entire rental arrears in agreed terms.



W.P.No.3740 of 2020

WEB COPY

2. It is the case of the petitioner that she had been in possession and enjoyment of the above mentioned premises for the past 50 years. It is not in dispute that the premises belongs to the second respondent and the petitioner seeking a direction to the second respondent to renew the lease in her favour and hand over the possession of the premises to the petitioner.

3. When the Writ Petition came up for hearing on 04.11.2024, at the request of the learned counsel for the petitioner, the matter was adjourned to today.

4. When the matter is taken up for hearing today, the learned counsel for the petitioner filed a memo dated 06.11.2024 stating that in spite of his best efforts, he is unable to contact his client and hence he sought for leave of the Court to withdraw his vakalat. The memo filed by the learned counsel for the petitioner is recorded.



W.P.No.3740 of 2020

WEB COPY

5. The name of the petitioner is already printed in the cause-list and there is no representation for the petitioner. Hence, this Court proceeds to pass further orders, after hearing the learned Special Government Pleader appearing for the respondents 1 & 2.

6. The learned Special Government Pleader appearing for the respondents 1 & 2, on written instructions, submitted that proceedings were initiated against the petitioner treating her as encroacher under Section 78 of the Hindu Religious & Charitable Endowments Act, 1959 and eviction order was passed by the second respondent on 04.03.2016. The revision filed by the petitioner before the Commissioner, HR & CE challenging the order of eviction was also dismissed on 24.10.2016. Thereafter, the respondents had taken possession of the premises on 30.12.2016. In these circumstances, the request made by the petitioner for renewal of the lease cannot be considered.



WEB COPY



W.P.No.3740 of 2020

7. Therefore, it is clear that the petitioner was treated as an encroacher and eviction order was passed against her under Section 78 of the Hindu Religious & Charitable Endowments Act, 1959. In such circumstances, the request of the petitioner for renewal of the lease and delivery of possession of the premises cannot be considered in the absence of challenge to the order passed by the first respondent confirming the eviction order passed by the second respondent.

8. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

06.11.2024

Index : Yes / No
Internet : Yes / No
dna



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To
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S.SOUNTHAR, J.
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