



WEB COPY



W.P.No.10546 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.10546 of 2021

And

W.M.P.Nos.11135 and 11136 of 2021

Mageswari

... Petitioner

Vs.

1.The Secretary to the Government,
Tourism, Culture and Religious Endowment
Department,
Fort St.George,
Chennai – 600 009.

2.The Commissioner
Hindu Religious and Charitable Endowment Board
No.119, Uttamar Gandhi Salai,
Chennai – 600 034.

3.The Assistant Commissioner/ Executive Officer
Arulmigu Parthasarathy Temple
Triplicane,
Chennai – 600 005.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the impugned order in G.O.Ms.No.57, dated 20.02.2020 passed by the first respondent – The Secretary to Government of Tamilnadu, Tourism, Culture and Religious Endowment Department, Chennai, quash the same.



WEB COPY



W.P.No.10546 of 2021

For Petitioner : Mr.E.Sridharan
For Respondents : Mr.S.Ravichandran for R1 and R2
Additional Government Pleader
Mr.Wilson Topaz for R3
for M/s.A.S.Kailasam & Associates

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari, calling for the records of the impugned order in G.O.Ms.No.57, dated 20.02.2020 passed by the first respondent – The Secretary to Government of Tamilnadu, Tourism, Culture and Religious Endowment Department, Chennai, quash the same.

2.The learned counsel appearing for the petitioner submitted that the petitioner's Father constructed a building in the vacant land in S.No.870, Dr.Natesan Road, Mylapore, Chennai measuring an extent of 1181 sq.ft. and was in continuous possession and enjoyment of the same. After his demise, the petitioner is in possession and enjoyment of the property. The petitioner apportioned a small portion measuring an extent of less than 70 sq.ft. for running a shop. While so, the third respondent issued notice under Section 78 and 79 of the Tamil Nadu Hindu Religious Charitable Endowments Act, 1959 [in short the 'Act'] demanding exorbitant amount as rent on 05.08.2014.



W.P.No.10546 of 2021

WEB COPY

3.The learned counsel appearing for the petitioner further submitted that the petitioner's Mother sent a reply dated 23.12.2014 to the third respondent and the third respondent without considering the same, passed an order dated 08.05.2015, against which the petitioner's Mother filed R.P.No.368 of 2016 before the second respondent, however, the second respondent rejected the revision on 18.08.2017 and challenging the same, the petitioner's Mother filed review petition in R.P.No.18 of 2019 before the first respondent and the said review petition was also dismissed. Recently, the petitioner came to know that the third respondent is not the owner of the subject property and hence she refused to pay the rent, however, the impugned order was passed by the first respondent.

4.The learned counsel appearing for the third respondent submitted that the petitioner's Mother did not take any specific stand disputing the title of the Temple and she filed appeal under Section 34-A(3) of the Act challenging the proceedings dated 12.05.2017 in which the petitioner's Mother was prepared to pay residential rent and not commercial rent. Pursuant to the order made in R.P.No.18 of 2019, the Temple took possession of three shops measuring around 300



W.P.No.10546 of 2021

sq.ft. on 18.02.2021 and as humanitarian gesture, did not take possession and seal the seven residential portions out of which, 5 have been let out to tenants and after the Temple took part possession, this writ petition has been filed. The learned counsel further submitted that nowhere it has been admitted that the subject property does not belong to Temple. There is no lease or rental agreement between the petitioner and the Temple.

5.Heard the arguments advanced on either side and perused the materials available on record.

6.The petitioner claim that the petitioner's Father constructed a building in the vacant land in S.No.870, Dr.Natesan Road, Mylapore, Chennai measuring an extent of 1181 sq.ft. and was in continuous possession and enjoyment of the same. After his demise, the petitioner is in possession and enjoyment of the property. The petitioner apportioned a small portion measuring an extent of less than 70 sq.ft. for running a shop. Recently, the petitioner came to know that the third respondent is not the owner of the subject property and hence she refused to pay the rent.



W.P.No.10546 of 2021

WEB COPY

7.Perusal of records disclose that the third respondent issued notice under Section 78 and 79 of the Act on 05.08.2014. The petitioner's Mother sent a reply dated 23.12.2014 to the third respondent and the third respondent passed an order dated 08.05.2015, against which the petitioner's Mother filed R.P.No.368 of 2016 before the second respondent, however, the second respondent rejected the revision on 18.08.2017 and challenging the same, the petitioner's Mother filed review petition in R.P.No.18 of 2019 before the first respondent and the said review petition was also dismissed.

8.Perusal of records further reveal that the petitioner's Mother did not take any specific stand disputing the title of the Temple and that she was prepared to pay residential rent and not commercial rent. Pursuant to the order made in R.P.No.18 of 2019, the Temple took possession of three shops measuring around 300 sq.ft. on 18.02.2021 and as humanitarian gesture, did not take possession and seal the seven residential portions out of which, 5 have been let out to tenants and after the Temple took part possession, this writ petition has been filed. No document has been produced before this Court to show that the subject property does not belong to the Temple.



W.P.No.10546 of 2021

WEB COPY

9. In view of the above, this writ petition is dismissed. The respondents are directed to evict the petitioner from the subject premises, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petitions are closed.

19.09.2024

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

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WEB COPY



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