



WEB COPY



WP.No.4485 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2024

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

WP.No.4485 of 2021
and W.M.P.Nos.5112 & 5115 of 2021

T.P.Abdulla

.. Petitioner

Versus

1. The State of Tamil Nadu
Represented by the Secretary Additional Chief Secretary to the Government
Tousism, Culture and Religious Endowments Department
Fort St.George, Chennai- 600 009

2. The Commissioner
Hindu Religious and Charitable Endowment
Administration Department
Nungambakkam, Chennai- 600 034.

3. The Joint Commissioner
Hindu Religious and Charitable Endowment
Administration Department
Nungambakkam, Chennai- 600 034.

4. The Executive Officer
Arulmigu Agatheewarar Prasanna
Venkatesa Perumal Temple
Nungambakkam, Chennai - 34.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order G.O. No.15 (Tourism Culture and Religious Endowments (Aa.Ni.3-1) Department) dated 10.01.2020 in revision petition R.P. No.8 of 2019 passed by the first respondent and quash the same and consequentially direct the respondents to permit the petitioner to continue his business at premises bearing No.302, Valuvar Kottam High Road, Nungambakkam,



WP.No.4485 of 2021

Chennai – 34.

WEB COPY

For Petitioner : Mr.Manoj Sreevalsan
For Respondents : Mr.K.Karthikeyan(Government Advocate)
HR & CE for R1 and 2
Mr.N.Nikilesh for R4
for M/s.A.S.Kailash & Associates

ORDER

This writ petition is filed challenging the records relating to the order G.O.Ms.No.15 (Tourism Culture and Religious Endowments (Aa.Ni.3-1) Department) dated 10.01.2020 in revision petition R.P. No.8 of 2019 passed by the first respondent and quash the same and consequentially direct the respondents to permit the petitioner to continue his business at premises bearing No.302, Valuvar Kottam High Road, Nungambakkam, Chennai – 34.

2. The case of the petitioner is that the petitioner's uncle namely Abu Backer was running a restaurant in the third respondent temple property from 1945 and a rental agreement was executed between them during the year 1975. During the year 1981, the said Abu Backer transferred his business rights to the petitioner and the petitioner is running the hotel business, since 1981. The petitioner has also put up superstructure in the subject premises. Thereafter, due to the dispute with regard the payment of rent, the impugned order has been passed on the revision petition filed by the petitioner in evicting the petitioner from the subject premises. Hence, this writ petition.



WP.No.4485 of 2021

WEB COPY

3. The learned counsel for the petitioner submitted that the petitioner's uncle namely Abu Backer entered a rental agreement with the third respondent in the year 1975. In fact, the earlier Hereditary Trustee made an application before the Commissioner under Section 34(1) of HR & CE Act in order to alienate the property in favour of the petitioner and the said application is pending and the petitioner is regularly paying the rent and a superstructure is also constructed by the petitioner. However, all of a sudden, the petitioner was evicted and possession was taken over by the HR & CE Department in the year 2019 itself and the possession is with the third respondent temple. He also seeks a direction of this Court to issue direction to the fourth respondent temple and the HR & CE Department to go for development of the property and after the development, if they are conducting any public auction, liberty may be granted to the petitioner to participate in the public auction in accordance with law.

4. Heard both sides and perused the materials placed on record.

5. On perusal of the entire records reveals that the petitioner's uncle entered into a rental agreement with the Hereditary Trustee. The rental agreement dated 01.03.1975 is an unregistered rental agreement executed in



WP.No.4485 of 2021

favour of one Abu Backer without the approval of the HR & CE Department and the same is not proper as per the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. Though the petitioner claims he is paying rent regularly, however, no document is produced before this Court to establish the same. Further, the petitioner has not produced any document before this Court to prove that the consent of the fourth respondent was obtained in construction of the building in the land owned by the fourth respondent. Though the petitioner produced 1 rental receipt dated 30.05.2003, except 1 document, no documents are produced with regard to the payment of the rent to the fourth respondent temple. All these facts shows that the petitioner is in illegal occupation of the fourth respondent temple without paying any rents.. Further, it is also to be seen that the possession was already taken by the fourth respondent in the year 2019 itself.

6. Such view of the matter, this Court is of the view that the prayer sought for in this writ petition cannot be granted. However, liberty is granted to the 4th respondent and the HR & CE Department for development and after development, if they are going for public auction, opportunity is to granted to the petitioner to participate in the auction subject to payment of arrears, if any payable by the petitioner to the fourth respondent temple.



WP.No.4485 of 2021

7. In view of the above, this writ petition stands dismissed. No costs.

Consequently, connected miscellaneous petitions are closed.

09.09.2024

dhk

Index: Yes/No

Internet: Yes/No

To

1. The Secretary Additional Chief Secretary to the Government
The State of Tamil Nadu
Tourism, Culture and Religious Endowments Department
Fort St.George, Chennai- 600 009

2. The Commissioner
Hindu Religious and Charitable Endowment
Administration Department
Nungambakkam, Chennai- 600 034.

3. The Joint Commissioner
Hindu Religious and Charitable Endowment
Administration Department
Nungambakkam, Chennai- 600 034.

M. DHANDAPANI, J.

dhk



WP.No.4485 of 2021

4. The Executive Officer
Arulmigu Agatheewarar Prasanna
Venkatesa Perumal Temple
Nungambakkam, Chennai - 34.

W.P.No.4485 of 2021

09.09.2024