



WEB COPY



W.P.No.5700 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.5700 of 2021

And

W.M.P.No.6319 of 2021

K.Vijayakumar

... Petitioner

Vs.

1.The Commissioner

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

2.The Assistant Commissioner/ Executive Officer

Arulmigu Parthasarathy Temple
Triplicane,
Chennai – 600 005.

3.The Tahsildhar

Mylapore
Chennai.

... 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 Na.Ka.No.490/2019 A3, dated 29.11.2019 passed by the second respondent – The Assistant Commissioner, Arulmigu Parthasarathy Temple, Chennai – 600 025, quash the same.



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W.P.No.5700 of 2021

For Petitioner : Mr.E.Sridharan

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

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari, calling for the records of the impugned order in Na.Ka.No.490/2019 A3, dated 29.11.2019 passed by the second respondent – The Assistant Commissioner, Arulmigu Parthasarathy Temple, Chennai – 600 025, quash the same.

2.The learned counsel appearing for the petitioner submitted that the petitioner's parents constructed a residential building at Old No.5, New No.9, in S.No.826/1, Block No.15, Dr.Natesan Road, Triplicane, Chennai and were residing there for several decades and they paid rent to the second respondent till 2016. After their demise, the petitioner is in possession of the property. The petitioner came to know that the second respondent is not the owner of the property and hence, he refused to pay rent to the second respondent.



W.P.No.5700 of 2021

3.The learned counsel appearing for the petitioner submitted that the second respondent by proceedings dated 29.11.2019 issued notice under Section 78 and 79 of the Tamil Nadu Hindu Religious Charitable Endowments Act, 1959 [in short the 'Act'] demanding a sum of Rs.62,650/- per month from 01.07.2016 to 30.11.2019, however, when the petitioner's sister applied for encumbrance certificate in the Sub Registrar Office, Mylapore, the Sub Registrar issued the encumbrance certificate stating that the land is enjoyed by the petitioner and his family and there is no mention about Arulmighu Parthasarathy Temply. The petitioner submitted his reply to the second respondent on 04.12.2019, however, there is no response.

4.The learned counsel appearing for the second respondent submitted that the petitioner's parents paid rent to the Temple and it would establish the landlord – tenant relationship. Fair rent was fixed for the subject property by the Fair Rent Fixation Committee of the HR & CE Department after considering the extent, locality and the best interest of the Temple after inviting objections from the Tenant. A notice dated 06.05.2003 was sent to the address of the petitioner calling for objections to fixation of fair rent, however, the same



W.P.No.5700 of 2021

returned as 'deceased'. The impugned order is a notice intimating the petitioner to pay the quantum of fair rent along with arrears.

5.The learned counsel appearing for the second respondent further submitted that the Temple initiated proceedings under Section 78 of the Act by giving complaint to the Assistant Commissioner, who in turn submitted report to the Joint Commissioner and a show cause notice was sent by the Joint Commissioner to the petitioner's address and thereafter the petitioner's Mother appeared before the Joint Commissioner in the proceedings under Section 78 of the Act. Thereafter, the petitioner's Mother also filed appeal before the first respondent under Section 34 of the Act and on the direction of the first respondent, the proceedings under Section 78 were kept pending disposal of the proceedings under Section 34 of the Act. The petitioner suppressed the above facts and has filed this writ petition.

6.The learned counsel appearing for the second respondent further submitted that the Temple has the property register which is a statutory register maintained under Section 29 of the Act and it is the prima facie evidence of their title. Patta for the land stands in the



W.P.No.5700 of 2021

name of the Temple and the petitioner's Mother obtained sale deed dated 12.12.1948 by which she purchased the superstructure along with leasehold rights in the land and in the sale deed it is specifically mentioned that the leasehold rights in land belong to the Temple and pursuant to the sale deed, the petitioner's Mother was inducted and recognized as a tenant under the Temple. He further submitted that the petitioner has not been recognized as a tenant.

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

8.The petitioner himself admits in the affidavit filed in support of this petition that the petitioner's parents paid rent to the second respondent till 2016, however, he refused to pay rent to the second respondent for extraneous reason and in order to grab the property. The petitioner did not approach this Court with clean hands. Hence, this Court is not inclined to grant the relief sought for in this writ petition.

9.This writ petition is dismissed. The respondents are directed to

M.DHANDAPANI,J.



W.P.No.5700 of 2021

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 petition is closed.

19.09.2024

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

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