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W.P.No.4689 of 2015 and S.A.No.855 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2024

CORAM:

THE HON'BLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.4689 of 2015 and S.A.No.855 of 2012

and

M.P.No.1 of 2015

V.Annamai

...Petitioner in W.P.No.4689 of 2015

A/m.Arunachaleswarar

Devasthanam,

Rep. by its Jt.Commissioner,

Executive Officer,

Thiruvannamalai

...Appellant in S.A.No.855 of 2012

Vs.

1. The Commissioner & Special Commissioner,
Hindu Religious & Charitable Endowments Department,
Nungambakkam, Chennai – 600 034.

2. Joint Commissioner / Executive Officer,
Arulmidu Arunachaleswarar Thiru Koil,
Thiruvannamalai – 606 601,
Thiruvannamalai District.

...Respondents in W.P.No.4689 of 2015

1. V.Annamalai

2. Dhanalakshmi

...Respondents in S.A.No.855 of 2012



W.P.No.4689 of 2015 and S.A.No.855 of 2012

Prayer in W.P.No.4689 of 2015: Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of certiorarified mandamus to call for the records of the second respondent in Na.Ka.No.461/2014/A3 dated 14.02.2015 and quash the same and direct the respondents to consider the representations dated 26.08.2013 and 23.06.2014 preferred by the petitioner and issue appropriate orders regularizing my tenancy of the petitioner in respect of the premises in the occupation of the petitioner at No.56/36 Ramasamy Garden Street, Arunachalapuram, Adyar, Chennai – 600 020.

Prayer in S.A.No.855 of 2012: Second Appeal filed under Section 100 of Code of Civil Procedure against the judgment and decree made in A.S.No.209 of 2004, dated 26.08.2011, on the file of the Addl. District & Sessions Judge, Fast Track Court IV at Madras reversing the judgment and decree made in E.A.No.3957 of 2003 in E.P.No.692 of 2002 in O.S.No.396 of 1986 on the file of the X Asst.Judge, City Civil Court, Madras dated 28.04.2004.

W.P.No.4689 of 2015:

For Petitioner : M/s.K.S.Viswanathan, Senior counsel
for T.Hemalatha

For Respondents : Mr.NRR.Arun Natrajan, Spl.G.P for R1



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Mr.A.K.Sriram, Senior counsel
for M/s.A.S.Kailasan Associates for R2

S.A.No.855 of 2012:

For Appellants : Mr.A.K.Sriram, Senior counsel
for M/s.A.S.Kailasan Associate

For Respondent : M/s.K.S.Viswanathan, Senior counsel
for T.Hemalatha

COMMON ORDER

Since the issue involved in the writ petition and the second appeal are similar in nature, they are disposed of by way of this common order.

2. For the sake of convenience, the parties are hereinafter referred to as per the rank in W.P.No.4689 of 2015.

3. The petitioner in W.P.No.4689 of 2015 had purchased a superstructure on the vacant site situated at Arunachalapuram, Adyar, Chennai – 600 020 belonging to Arulmigu Arunachaleswarar Thiru Koil, Tiruvannamalai vide sale deed dated 10.06.1993 from one Vijayalakshmi. Recognizing the tenancy of the petitioner, the said Temple had started to collect rent on monthly basis from him. Seeking to regularize his tenancy on



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payment of fair rent, the petitioner has made several representations before the said Temple. In the mean time, E.A.No.3957 of 2003 in E.P.No.692 of 2002 in O.S.No.396 of 1986 was filed by the Temple administration before the X Assistant City Civil Court seeking to evict the petitioner, considering him as an unauthorised occupant and the same was allowed vide judgment dated 28.04.2004. Aggrieved over the same, the petitioner preferred an appeal in A.S.No.209 of 2004 before the learned Additional District and Sessions Judge, however, the said appeal was allowed vide order dated 26.08.2011. Challenging the same, the Temple Administration has filed the above second appeal in S.A.No.855 of 2012 against the petitioner before this Court which is also still pending.

4. The petitioner has also filed another writ petition before this Court in W.P.No.26819 of 2007, however, the same was disposed of with a direction to the Temple and the H.R.& C.E. Department to consider his representation for regularization of tenancy in accordance with G.O.M.S.No.340 dated 06.08.2007. Though the aforesaid second appeal is pending before this Court, a communication dated 14.02.2015 was sent by the Temple authorities stating that the petitioner has encroached the said property and also intimated him to



handover the said property, challenging which, the petitioner has filed the above writ petition seeking to quash the said order dated 14.02.2015 and the Temple authorities have filed the above second appeal against the judgment and decree passed in A.S.No./209 of 2004.

5. The learned counsel for the petitioner / tenant in the above writ petition submits that the petitioner is ready to execute a gift deed in respect of the aforesaid super structure in favour of the Temple in terms of G.O.(Nilai).No.277, Tamil Development Cultural and Endowments Department, dated 02.12.2005. He further submitted that it would suffice if this Court issues a direction to the Temple authorities to fix fair rent in respect of the aforesaid superstructure.

6. The learned Special Government Pleader appearing for the first respondent / H.R.& C.E Department submitted that if the petitioner is prepared to execute a gift deed in favour of the temple in terms of the G.O.(Nilai).No.277, Tamil Development Cultural and Endowments Department, dated 02.12.2005, he has to necessarily pay 10 times of the fair rent as donation to the Temple apart from the gift deed executed executed by



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the petitioner as donation.

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7. The learned counsel appearing for the second respondent / Temple submits that as per the calculation arrived at by the Temple, the petitioner / tenant has to pay the pending monthly dues to the tune of Rs.21,64,968/- as on 31.08.2024 along with ten times of the fair rent fixed by this Court as donation. Hence, he prayed this Court for passing appropriate orders.

8. This Court perused the entire calculation submitted by the Temple for the pending dues to be payable by the petitioner / tenant. The relevant portion of the said calculation is extracted as under:



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02.12.2005 along with the pending dues to the tune of Rs.21,64,968/- (21,64,968 + 1,27,760 = Rs.22,92,728/-) arrived at by the Temple by way of ten installments in favour of the Temple. The first installment shall start from 07.10.2024 onwards. In addition to the said installments, the petitioner shall continue to pay the fair rent of Rs.16,875/- per month from 2024 fixed by this Court on or before 7th of every succeeding English Calendar. Failing compliance of the aforesaid directions, it is open to the H.R.& C.E. Department to evict the petitioner from the aforesaid premises within a period of four (4) weeks from the date of default committed by the petitioner.

10. With the above directions and observation, this writ petition is disposed of. In view of the order passed in W.P.No.4689 of 2015, the second appeal filed by the Temple as against the petitioner stands closed. No costs. Consequently, connected miscellaneous petition is closed.

23.09.2024

RAP

NCC : Yes/No
Index : Yes/No
Speaking Order : Yes/No



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To:

1. The Commissioner & Special Commissioner,
Hindu Religious & Charitable Endowments Department,
Nungambakkam, Chennai – 600 034.
2. Joint Commissioner / Executive Officer,
Arulmidu Arunachaleswarar Thiru Koil,
Tiruvannamalai – 606 601,
Tiruvannamalai District.

M.DHANDAPANI, J.



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