



W.P.No.24642 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2024

CORAM

THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.24642 of 2024

R.M.Saravanan

...Petitioner

Vs.

1. The Commissioner  
Hindu Religious & Charitable Endowment Department,  
119, Uthamar Gandhi Road, Nungambakkam,  
Chennai – 600 034.
2. The Joint Commissioner  
Hindu Religious & Charitable Endowment Department,  
Riverside Street, Cuddalore – 607 001.
3. The Assistant Commissioner  
Hindu Religious & Charitable Endowment Department,  
Cuddalore – 607 001.
4. The Executive Officer,  
A/M Rajagopalasami Thirukkoil,  
Pudupalayam, Cuddalore – 607 001.

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to recognize the petitioner as tenant in respect of the site/property bearing Door No.86, Lawrence Road, Thiruppadiripuliyur, Cuddalore-607 002, Cuddalore Taluk, Cuddalore



W.P.No.24642 of 2024

District in pursuance to the decision taken by the respondents and the publication effected by the 4<sup>th</sup> respondent in Dhinamalar Tamil Daily News Paper dated 15.03.2023.

For Petitioner : Mr.Gururaj  
for Mr.D.Baskar

For Respondents : Mr.K.Karthikeyan, GA

### **ORDER**

This Writ petition has been filed seeking direction to the respondents to recognize the petitioner as tenant in respect of the site/property bearing Door No.86, Lawrence Road, Thiruppadiripuliyur, Cuddalore,in pursuance to the decision taken by the respondents and the publication effected by the 4<sup>th</sup> respondent in Dhinamalar Tamil Daily News Paper dated 15.03.2023.

2. Mr.K.Karthikeyan, learned Government Advocate takes notice on behalf of the respondents. In view of the consent expressed by the learned counsel on either side, this Writ petition is taken up for final disposal at the admission stage itself.

3. The case of the petitioner is that the property bearing Door No.86, Lawrence Road, Thiruppadiripuliyur, Cuddalore constructed upon



W.P.No.24642 of 2024

T.S.No.1751/ - 3600 sq.ft., belongs to the 4<sup>th</sup> respondent temple, which is under the control of the respondents 1 to 3. Initially, the vacant site was rented out to one Ramakrishna Chettiar under a registered rent deed dated 26.06.1996 on a monthly rent of Rs.75/- and the said Ramakrishna Chettiar constructed a building in the said vacant site at his cpst and he subsequently entered into a sale agreement dated 01.02.1089 with the petitioner's father in respect of the superstructure. In the meanwhile, the said Ramakrishna Chettiar and his wife entered into a fresh sale agreement with the petitioner's junior paternal uncle one Arumugham under an internal arrangement between the petitioner's father and his three brothers and subsequently, the petitioner's paternal uncles fraudulently obtained sale deed dated 22.07.1993 in their names and there arose civil disputes. Despite the same, the possession continued with the petitioner's father and currently, the petitioner is running a medical shop in the ground floor and there are other tenants. While so, the 4<sup>th</sup> respondent filed a suit in O.S.No.81 of 1997 on the file of Sub Court, Cuddalore against the said Ramakrishna Chettiar, the petitioner's father and three others and the same was transferred to Principal District Munsif Court, Cuddalore and renumbered as O.S.No.182 of 2004, which came to be dismissed for default on 27.11.2023. While so, the respondents



W.P.No.24642 of 2024

forbibly locked the building and subsequently de-sealed the premises upon payment of Rs.38,49,595/- by the petitioner's father. After the demise of his father, the petitioner is in continuous possession of the subject property and based on the request made by the petitioner, the respondents effected a publication dated 15.03.2023 in the newspapers, calling for objection in respect of the name transfer in favour of the petitioner. In such circumstances, instead of accepting the petitioner as a tenant, the respondents initiated eviction proceedings under Section 78 of the HR & CE Act in M.P.No.146/2023/A4 dated 10.01.2024. Hence, this writ petition.

4. Though very many grounds have been raised, the learned counsel for the petitioner submitted that, it would suffice if this Court issues direction to the respondents to take decision with regard to the paper publication dated 15.03.2023 effected by the 4<sup>th</sup> respondent.

5. Learned Government Advocate appearing on behalf of the respondents submitted that, inadvertently, the then executive officer and other officials had effected paper publication for name transfer in favour of the petitioner. Thereby, subsequently eviction proceedings was initiated



W.P.No.24642 of 2024

against the petitioner under section 78 of the HR & CE Act and instead of participating in the said proceeding, filing the present writ petition is not sustainable, and the said act of the petitioner clearly shows his intent to drag on the case, which cannot be entertained. Accordingly, he prayed for dismissal of this Writ petition.

6. Heard learned counsel on either side and perused the material documents placed on record.

7. It is the claim of the petitioner that, the subject land belonging to the 4<sup>th</sup> respondent temple was initially rented out in favour of one Ramakrishna Chettiar, who in turn raised a construction in the said land and alienated the said superstructure in favour of the petitioner's father. However, no material document has been submitted by the petitioner before this Court to show that necessary approval as mandated under section 34 of HR & CE Act has been obtained before raising or alienating the superstructure in the subject land owned by the 4<sup>th</sup> respondent.

8. Further, the petitioner had miserably failed to establish that his





W.P.No.24642 of 2024

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**M.DHANDAPANI, J.**

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W.P.No.24642 of 2024

W.P.No.24642 of 2024

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