



WEB COPY

W.P.No.15797 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2024

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.15797 of 2024

A.A.Fathima Nachiya,
W/o.Late Mohammed Iqbal,
Carrying on business under the
Name and Style of KAZURA CO,
No.2, Nyniappa Naicken Street,
Chennai - 600 079.

...

Petitioner

versus

1.The Commissioner,
Hindu Religious Charitable Endowments Department,
119, Uthamar Gandhi Road,
Nungambakkam, Chennai - 600 034.

2.The Joint Commissioner,
Chennai Region-1,
H.R.& C.E. Department,
68, E.V.K.Sampath Maaligai,
9th Floor, DPI Campus,
College Road, Chennai - 600 006.

3.Shri Chenna Malleswarar &
Shri Chenna Kesavaperumal Dewasthanam,
Represented by Trustee
Manali Dr.Sreenivasan Mudaliar.
No.85, Devaraja Mudali Street,
Chennai - 600 003.

...

Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to consider and dispose of the petitioner's representation dated 15.05.2024 to direct the respondents 1 and 2 to enter into the afresh lease agreement in respect of property at "KAZURA CO", No.2, Nyniappa Naicken Street, Chennai - 600079 with the petitioner and fix monthly rent in accordance with law.

For Petitioner : Mr.G.V.Sridharan

For Respondent Nos.1 & 2 : Mr.K.Karthikeyan
Government Advocate (HR&CE)

For Respondent No.3 : Mr.D.R.Sivakumar

ORDER

This Writ Petition has been filed for issuance of a Writ of Mandamus, directing the respondents to consider and dispose of the petitioner's representation dated 15.05.2024 and also to direct the respondents 1 and 2 to enter into a fresh lease agreement in respect of the property situated at "Kazura Co", No.2, Nyniappa Naicken Street, Chennai - 600 079 with the petitioner by fixing the monthly rent in accordance with law.



WEB COPY

2. The case of the petitioner is that she is running the business under the name and style of "Kazura Co" in the above said address for the past several years. Originally, her husband viz. Mohammed Iqbal as a tenant under Sri Chenna Malleswarar & Sri Chenna Kesavaperumal Devasthanam and he had been paying the monthly rents without any default. The third respondent comes under the governance of the respondents 1 and 2. After the demise of her husband in the year 2000, the petitioner as a legal heir had running the said shop without any disturbance from anybody and paying the monthly rent of Rs.2,250/- by way of Demand Draft to the temple without any default. The petitioner is ready to enter into a fresh Lease Agreement with the temple and also ready to pay the rent fixed by the temple. In this regard, the petitioner has sent representation dated 15.05.2024 to the respondents. But no action has been taken on the representation and hence, the petitioner has filed this writ petition to direct the respondents to enter into a fresh lease agreement in respect of the property.

3. The learned Government Advocate (HR&CE) for the respondents 1 and 2 submitted that originally the said temple falls under Section 46(iii) of the scheduled temple and the said temple has got the



WEB COPY

properties in which Door No.2, Nyniappa Naicken Street, in the name and style of “Kazura Co” has been originally started by one M.M.Hanifa. After the demise of the said person, his relative one Fathima Nachiya is running the shop and she is occupying 113sq.ft. in the ground floor and 280sq.ft. in the second floor. On 01.11.2001, the fair rent was fixed by the respondents but the petitioner is not willing to pay the same. He further submitted that a sum of Rs.3,66,644/- for the ground floor till June 2024, Rs.8,38,500/- for the second floor till June 2024, Rs.4,740/- for the ground floor from 01.07.2016 and Rs.9,700/- for the second floor till 30.06.2024, the arrears of rent for the shops which have been occupied by the petitioner.

4. It is also seen that the fixed total amount to be paid by the petitioner is Rs.12,05,144/- and she has not been as a tenant and the original tenant, namely one M.M.Hanifa did not pay the rent properly and suits in O.S.No.1490 of 1994 and O.S.No.1720 of 1994 were filed and they got a decree in favour of the temple and they also filed E.P.No.468 of 2016 and E.P.No.474 of 2016 and on 08.02.2024 only possession was handed over to them. However, the warrant was executed on 27.03.2024. When the respondents try to reach the place, the shops were closed and locked and the



neighbours and other persons, who are all supporting the petitioner had joined in a group and they made disruption and only after getting the police protection, they opened the shops and appropriate application has been filed before the E.P. Court on 04.06.2024. The petitioner also filed C.R.P.No.630 of 2024 and the same was dismissed at the stage of admission. Hence, the petitioner has approached this Court without clean hands and suppressing all these facts, she has filed this petition and the same has to be dismissed.

5. It is seen that suits filed and the same has been decreed in favour of the temple and E.P. has been proceeded with and C.R.P. also filed and has been dismissed. The petitioner had suppressed all these materials in this writ petition and only sought for a mandamus, directing the respondents to consider the representation for a new lease. When the petitioner is not a lease holder and she is only an unauthorized occupant, the respondents are not willing to allow this writ petition and prayed for dismissal of the writ petition at the admission stage.

6. On going through the averments, it is seen that the petitioner has been in arrears of rent and the respondents are trying to proceed against



the said person in the manner known to law. When that being the case, when the respondents are not willing to consider the representation and they are seeking for dismissal, this Court is not inclined to grant the relief sought by the petitioner.

7. In the result, this Writ Petition is dismissed. No costs.

20.06.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

sri



To

WEB COPY

- 1.The Commissioner,
Hindu Religious Charitable Endowments Department,
119, Uthamar Gandhi Road,
Nungambakkam, Chennai - 600 034.

- 2.The Joint Commissioner,
Chennai Region-1,
H.R.& C.E. Department,
68, E.V.K.Sampath Maaligai,
9th Floor, DPI Campus,
College Road, Chennai - 600 006.



WEB COPY

W.P.No.15797 of 2024



V.BHAVANI SUBBAROYAN, J.

sri

W.P.No.15797 of 2024

20.06.2024