



W.P.No.22228 of 2024

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2024

CORAM :

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

W.P.No.22228 of 2024

M.Lodd Ramgopal

... Petitioner

Vs.

1.The Joint Commissioner,
Chennai Zone – I,
Hindu Religious and Charitable Endowment Department,
E.V.K. Sampath Maaligai,
9th Floor, College Road,
Egmore, Chennai – 600 006.

2.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Chennai – 600 034.

3.The Executive Officer,
Arulmighu Gangadeeswarar Thirukoil,
Purasawalkam,
Chennai – 600 084.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 3rd respondent to consider the representation of the petitioner dated 11.08.2023 and to unlock the premises in then No.90, Old No.56, Present No.4,



W.P.No.22228 of 2024

Gangadeeswarar Koil Street, Purasawalkam, Chennai – 600 084 and
thereby allow the petitioner to use the property.

For Petitioner : Mr.S.Viji

For Respondents : Mr.N.R.R.Arun Natarajan
Special Government Pleader

ORDER

This Writ Petition has been filed seeking for a Writ of Mandamus, to direct the 3rd respondent to consider the representation of the petitioner dated 11.08.2023 and to unlock the premises in then No.90, Old No.56, Present No.4, Gangadeeswarar Koil Street, Purasawalkam, Chennai – 600 084 and thereby allow the petitioner to use the property.

2. Mr.N.R.R.Arun Natarajan, learned Special Government Pleader, accepts notice on behalf of the respondents. In view of the consent expressed by the learned counsel appearing for the parties, this writ petition is taken up for final disposal at the stage of admission itself.

3. The case of the petitioner is that, the aforesaid property belongs to the 3rd respondent/temple and the same was given on lease to



W.P.No.22228 of 2024

Mrs.Yasodharmal and she died on 21.11.1985. Thereafter, her legal

heirs were in possession and enjoyment of the property. The said legal

heirs sold the superstructure constructed on the land leased to them by

the temple to the petitioner vide Sale Deed registered as Document

No.1376 of 2008 dated 30.11.2007 on the file of the Sub-Registrar,

Purasawalkam. The petitioner has been in uninterrupted possession and

enjoyment of the property since the date of the purchase and have been

paying the contractual rent as levied by the 3rd respondent promptly.

However, the 3rd respondent filed a petition u/s 78 of the Hindu Religious

and Charitable Endowment Act (in short "the Act") praying for the

eviction of the petitioner from the premises on the ground that the

petitioner is an encroacher. The said proceedings are pending before the

1st respondent and the same is being defended by the petitioner in

accordance with law. Whiles, during the pendency of the above

proceedings, on 26.07.2023 the 3rd respondent arbitrarily locked the

premises and prevented the petitioner from possession of the property.

Therefore, he made a representation dated 11.08.2023 before the 3rd

respondent to unlock the aforesaid premises and permit the petitioner to

use the same. Instead of acceding the request made by the petitioner, the

3rd respondent has filed a status report dated 05.03.2024 before the 1st



W.P.No.22228 of 2024

respondent stating that as per the enhance fair rent, the petitioner is liable to pay a sum of Rs.16,96,080/- from 01.07.2016 till March 2024 and since the same was not paid, the 3rd respondent had arbitrarily locked the premises. Therefore, the petitioner has filed the above writ petition before this court for appropriate orders.

4. Though very many grounds have been raised in this writ petition, the learned counsel for the petitioner submits that, it would suffice, if this Court issues a direction to the 3rd respondent to consider the petitioner's representation dated 11.08.2023 and pass appropriate order, without prejudice to his rights in the proceedings pending before the 1st respondent, within a time frame that may be fixed by this Court.

5. Learned Special Government Pleader appearing for the respondents submitted that, the entire property was given on lease in favour of one Yasodhammal and the said Yasodhammal died in the year 1985. Thereafter, the lease was not extended to any of the legal heirs of the said Yasodhammal and the petitioner created a forged document with the an extension of lease period by the legal heir of the said Yasodhammal, which is not binding on the 3rd respondent/temple. If at



W.P.No.22228 of 2024

the legal heir wants to alienate the property, they have to obtain appropriate permission from the 3rd respondent/temple for alienating the superstructure in favour of the petitioner in terms of Section 34 of the Act. However, the said procedure contemplated u/s 34 of the Act is not followed, hence, the sale deed alleged to have been executed by the legal heir of the said Yasodhammal in favour of the petitioner is not binding on the 3rd respondent/temple, thereby, the 3rd respondent filed a petition u/s 78 of the Act for the eviction of the petitioner from the premises. However, the petitioner has deliberately absented himself for several occasions to appear before the 1st respondent in order to deprive the rights of the 3rd respondent/temple, which is wholly unsustainable. Further, the learned Special Government Pleader produced photocopy of the building situated in the aforesaid property and submitted that the building situated in the aforesaid property of the 3rd respondent/temple is not fit for dwelling. Though the building itself is not fit for dwelling, however, the petitioner claims that he purchased the building in dilapidated condition, which shows that the petitioner has an intention to grab the property of the 3rd respondent/temple, which cannot be allowed to continue. Accordingly, he prays for dismissal of the writ petition.



W.P.No.22228 of 2024

6. Heard the learned counsel for the petitioner and learned Special Government Pleader appearing for the respondents and perused the materials available on record.

7. Upon perusal of the materials available on the record and submission made by the learned Special Government Pleader appearing for the respondent, it is evident that the aforesaid property belongs to the 3rd respondent/temple. Though the petitioners claims that he purchased the said superstructure from the legal heirs of one Yasodhammal, to whom the property was initially leased out by the 3rd respondent/temple, however, the said property cannot be alienated by anyone without getting appropriate permission from the 3rd respondent/temple in terms of Section 34 of the Act. In the absence of getting appropriate permission from the 3rd respondent/temple, the petitioner has no right to claim possession of the aforesaid property. Therefore, the 3rd respondent has filed a petition u/s 78 of the Act before the 1st respondent for evicting the petitioner and during the pendency of the said proceedings before the 1st respondent, the 3rd respondent/temple has rightly locked the premises, which cannot be said to be arbitrary or illegal. From a perusal of the photocopy produced by the learned Special Government Pleader appearing for the respondents



W.P.No.22228 of 2024

reveals that the building situated in the aforesaid property is in dilapidated condition and the same is not fit for dwelling. This court is of the view that the petitioner has an intention to grab the property of the 3rd respondent/temple by claiming that he purchased the aforesaid property from the legal heir of the said Yasodhammal, which cannot be allowed to continue, since the petitioner has no right to claim possession of the aforesaid property and the purchase is illegal in terms of Section 34 of the Act. Hence, the prayer sought for by the petitioner cannot be granted and this writ petition is liable to be dismissed.

8. Accordingly, this Writ Petition is dismissed. No costs.

06.08.2024

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes / No

sp

To

1.The District Collector,
Kancheepuram.

2.The Assistant Director,
Fisheries and Fisherman Welfare Department,
No.2/601A, East Coast Road, Neelankarai,
Chennai – 600 115.



W.P.No.22228 of 2024

3.The Executive Engineer,
WRO, Keezhpalaru Basin Division,
Kancheepuram.



WEB COPY



W.P.No.22228 of 2024

M.DHANDAPANI, J.

sp

W.P.No.22228 of 2024

06.08.2024