



W.A.No.2314 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2024

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE K. KUMARESH BABU

W.A.No.2314 of 2022 and

CMP No.17711 of 2022

V.Kumar

... Appellant

Vs.

1. The Joint Commissioner,
HR & CE Department, Nagapattinam.

2. The Assistant Commissioner, Thiruvarur,
HR & CE Department, Thiruvarur.

3. The Executive Officer, Arulmigu Subramaniya Swamy Temple,
Engan Village, Thiruvarur Taluk.

4. The Tahsildar, Thiruvarur.

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent Act to set aside the order passed in W.P.No.25409 of 2022, dated 15.9.2022.



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For Appellant : Mr. K.Sakthivel

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For Respondents : Mr.N.R.R.Arun Natarajan, Spl.Govt.Pleader
for respondents 1 and 2

Mr.R.Bharanidaran, for third respondent

Mr. V.Manoharan Addl.Govt.Pleader
for fourth respondent

JUDGMENT

(Order of the Court was delivered by D.KRISHNAKUMAR, J.)

This intra court appeal has been filed by the writ petition as against the order passed by the learned Single Judge in W.P.No.25049 of 2022, dated 15.09.2022.

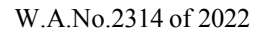
2. According to the appellant, he is in possession of the building in old survey No.79/32, new survey No.172/1, measuring to an extent of 0.13 cents, Engan Village, Thiruvarur Taluk and District which is classified as Natham Poramboke, was constructed by one Rengasamy Udaiyar about 60 years back. The original owner of the building has given power of attorney to the petitioner to take care of the building in the year 2001 and he sold the same to his brother-in-law by name Jai Shankar and now, his brother in law



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allowed him to enjoy the property and accordingly, he is in possession of the property. In such circumstances, the HR & CE Department has given notices to the appellant to recover the possession of the property, stating that steps were taken to convert the land from Natham Promboke to temple land and now, the property belongs to the temple and directed the appellant to vacate the property. Challenging the said notices, the appellant filed writ petition to quash the impugned notices, as the land is classified as " natham poramboke" and also direct the authorities concerned to conduct fresh enquiry, with regard to the possession of the property. The learned Single Judge dismissed the writ petition observing that, the appellant has not produced any record to show his right over the property, as it was handed over to him by his brother-in-law. As against the order of the writ court, the present writ appeal has been filed.

3. Though the appellant has raised various grounds in the writ appeal, after elaborate argument made by both the counsel, the learned counsel for the appellant fairly submitted that, the respondent may be directed to consider the appellant to continue in possession of the property, on payment



of lease cum rent, as fixed by the respondent, under the provisions of the HR & CE Act.

4. To that extent, this court directed the respondent to get instructions from the Department.

5. On instructions, the learned Special Government Pleader submitted that the subject matter of the property is required to the temple for construction of Executive Officers' Quarters. However, considering the fact that the appellant is continued in possession of the property for a long time, the temple is agreed to execute the lease deed in favour of him, on payment of rent.

6. According to the respondents, the property in question belonged to the temple. To that extent, the learned counsel for the appellant, on instructions, submitted that, the appellant has given up his right in claiming the property as it is belonged to the revenue or other department and agreed that the property belonged to the HR & CE Department.



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7. In view of the submission made by the learned counsel appearing on both sides, it is made clear that the property in dispute to be given to the appellant is only under lease cum rent, under the terms and conditions as stipulated in the agreement and the same is binding on both the parties concerned.

8. Accordingly, we inclined to dispose the writ appeal with the following directions.

i) The appellant is directed to make an application to the Joint Commissioner, HR & CE Department, Nagapattinam to grant lease cum rent in favour of him under Section 34(A) of the HR & CE Act, with regard to the property in dispute, within four weeks from the date of receipt of a copy of this order.

ii) On such application being received, the Joint Commissioner, HR & CE Department, Nagapattinam shall consider the same, if otherwise eligible, and fix the rent for the property, as per the guidelines under Section 34(A) of the HR & CE Act.



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iii) If the appellant is failed to pay the rent and acted contrary to the terms and conditions of the agreement, the respondent is at liberty to take action against the appellant for eviction, in accordance with law.

9. With the above directions, this writ appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

(D.K.K.J.) (K.B.J.)

05.07.2024

Internet: Yes/No
Index : Yes/No
mst

To

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