



W.P.No.12193 of 2017 & etc. Batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2024

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

W.P.Nos.12193 to 12202 of 2017
and WMP.Nos.12988, 12989, 12990 to 12997 of 2017

N. Balaraman

...Petitioner in W.P.No.12193 of 2017

Vs.

1. The Commissioner
HR & CE (Admn.) Department,
Nungambakkam High Road,
Nungambakkam,
Chennai-600 034.
2. The Joint Commissioner
HR & CE (Admn.) Department,
Nungambakkam High Road,
Nungambakkam,
Chennai-600 034.
3. Arulmigu Parthasarthy Swamy Temple
Represented by its Executive Officer,
Deputy Commissioner,
Triplicane,
Chennai-600 005.

...Respondents in W.P.No.12193 of 2017



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the respondents to forbear from interfering with the possession of the tenanted shop premises of the petitioner, namely, No.2/4, Peyalwar Kovil Street, Triplicane, Chennai-600 005, in any manner except by due process of law.

In all W.Ps':

For Petitioner : No Appearance

For Respondents : Mr.NRR Arun Natarajan
Special Government Pleader (HR & CE)
for R1 and R2
: Mr. S.Surya
for M/s.A.S.Kailasam & Assoc. for R3

COMMON ORDER

The present batch of writ petitions has been filed by the respective petitioners seeking a direction to the respondents to forbear from interfering with the possession of the tenanted shop premises of the petitioners, namely, Nos.2/4, 5/4, 4/4,1/2, 2/2, 6/2, 7/2, 3/ 4, 6/4, 4/2, 3/2, Peyalwar Kovil Street, Triplicane, Chennai-600 005.

2. Since the issues involved in all these Writ Petitions are one and the same, all the Writ Petitions are being disposed of by way of this common order.



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3. Petitioners are the lawful tenants under the Arulmigu Parthasarathy Swamy Temple in respect of commercial shops bearing Nos.2/4, 5/4, 4/4,1/2, 2/2, 6/2, 7/2, 3/ 4, 6/4, 4/2, 3/2, Peyalwar Kovil Street, Triplicane, Chennai-600 005 since 1990. Petitioners are paying rent, electricity consumption charges and property taxes pertaining to the aforesaid commercial shops. When things stood thus, the third respondent herein on 04.05.2017 along with group of police officials, attempted to evict the petitioners from the aforesaid shop premises and also started eviction process by demolishing commercial shops. Hence, petitioners have preferred these instant Writ Petitions.

4. The grievance ventilated by the petitioners, as is evident from the affidavits filed in support of the Writ Petitions, is that the third respondent had not followed the procedure pertaining to eviction as contemplated under the provisions of the Tamil Nadu High Religious & Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959) and had not issued any notice to the petitioners regarding unlawful eviction which is against the principles of natural justice.



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5. Learned counsel for the third respondent has filed common counter affidavit and contended that previously there was an intention to provide an alternate site to the petitioners and subsequently it came to light that many of these petitioners are not the original tenants and that they are only encroacher. He further submitted that this Court by interim order has directed the petitioners to give undertaking on or before 18.07.2017, with a default clause to the effect that if undertaking is not filed, the Court will direct the respondents to take possession with the help of police. However, no such undertaking was received from the petitioners. Therefore, respondent proceeded to evict the petitioners by invoking Section 80 of the Tamil Nadu High Religious & Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959) and the proceedings are still pending before the Joint Commissioner, HR & CE (Admn.) Department, Chennai. Further, it is submitted that the petitioners without making any representation or sending a legal notice to the respondents have directly rushed to this Court by filing these Writ Petitions and therefore, no mandamus can be issued. He prayed for dismissal of these Writ Petitions.



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6. Heard the learned counsel for the respondents and perused the records.

7. Considering the facts and circumstances of the case, more particularly the fact that the proceedings are still pending before the second respondent, this Court is inclined to issue a direction to the second respondent to conduct the enquiry in the manner known to law, of course after providing sufficient opportunity to the petitioners, and dispose of the matter as expeditiously as possible, preferably within a period of four weeks from the date of receipt of copy of this order. If any of the petitioners have already participated in the proceedings before the second respondent, no fresh opportunity need be granted.

8. With the above direction, these Writ Petitions are disposed of. No cost. Consequently, connected miscellaneous petitions are closed.

03.09.2024

Index : Yes / No

Neutral Citation: Yes/No

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M.DHANDAPANI, J.

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To

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HR & CE (Admn.) Department,
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