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W.P Nos.34788, 34796 and 34799 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2024

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THE HONOURABLE MR. JUSTICE S. SOUNTHAR

W.P Nos.34788, 34796 and 34799 of 2024

and

WMP Nos. 37724, 37725, 37736, 37738, 37742 & 37743 of 2024

A.Shanthi

2024

S.Chandra

K.Gajendran

... Petitioner in WP.No.34788 of

... Petitioner in WP.No.34796 of 2024

... Petitioner in WP.No.34799 of 2024

Versus

1. The Commissioner

Hindu Religious and Charitable Endowments Dept,

Mahatma Gandhi Salai

Nugambakkam, Chennai - 600 034.

2. The Joint Commissioner

Hindu Religious and Charitable Endowments Dept,

Chennai.

3. The Executive Officer

A/M Bhashyakara Adi Chenna

Kesava Perumal Temple,

Mambalam, Chennai.

...Respondents in all

WPs

Common Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records pertaining to the first respondent impugned order in R.P.Nos.269/2023 D2, 268/2023 D2 and 273/2023 D2 dated 07.05.2024 and quash the same as illegal, arbitrary



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and unconstitutional.

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For Petitioners : Mr. J. Ramesh in all WPs
For Respondents : Mr. NRR. Arun Natarajan
Special Government Pleader (HR & CE)

COMMON ORDER

These writ petitions have been filed challenging the orders passed by the first respondent, confirming the order of eviction passed by the second respondent in his proceedings initiated under section 78 of HR & CE Act.

2. It is the case of the petitioners that they are tenants in the land bearing T.S.No.2/1 belonged to the third respondent temple from the year 1962. The petitioners have been regularly paying the rent fixed by the temple at the rate of Rs.2/- for the usage of the land belonged to the temple. It is further submitted that the petitioners have put up a superstructure and obtained electricity service connection and staying there for more than 62 years. In these circumstances, the second respondent initiated the proceedings under section 78 of HR & CE Act during Covid-19 period. Therefore, the petitioners could not appear before the second respondent. However, without hearing the petitioners, an order of eviction was passed by the second respondent on 21.02.2023. Aggrieved by the order of eviction passed by the second respondent, the petitioners approached the first respondent by way of Revision



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petitions in R.P. Nos. 269, 268 and 273 of 2023 and the same was dismissed by the first respondent. Aggrieved by the same, the petitioners are before this Court.

3. The learned counsel appearing for the petitioners submitted that the petitioners are tenants under the third respondent temple for several years and without considering the same, the respondents 1 and 2 passed the orders of eviction. The learned counsel further submits that the petitioners had put up superstructure in an adjacent platform and it does not belong to the third respondent temple. Therefore, according to him, the initiation of the eviction proceedings is illegal.

4. In the affidavit filed by the petitioners it is clearly admitted that they had put up a superstructure in the land belonged to the third respondent but contrary to the averments contained in the affidavit it is stated before this Court that the petitioners had put up superstructure only in a platform which does not belong to the third respondent. In case, the petitioners disputed title of the temple they should have filed a suit by invoking Section 79 (2) of the HR & CE Act immediately after passing of eviction order. Hence, it is too late for the petitioner to question the title of the respondent temple and take contrary stand



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against their stated position in the affidavit.

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5. As far as the tenancy is concerned, it is seen in the impugned order that fair rent was fixed for the land let out to the petitioners under section 34 (A) of the HR & CE Act and the same was communicated to the petitioners. In spite of the same, the petitioners are in arrear of the fair rent. In such circumstance, a resolution was passed by the trust board of the third respondent terminating the lease agreement with the petitioners. Therefore, the petitioners are treated as encroachers of the land and proceedings were initiated under Section 78 of the HR & CE. Though the notice was issued to petitioners asking them to appear for enquiry, all the petitioners failed to appear for enquiry and participate in the said proceedings. Ultimately, eviction orders were passed by the second respondent on 21.02.2023. Though the learned counsel for the petitioners submits that the eviction proceedings were initiated by the second respondent during Covid-19 lockdown period, the eviction order was passed by the second respondent only on 21.02.2023, well after Covid lockdown period. It also is not in dispute that the petitioners failed to pay the fair rent fixed by the third respondent and they were in huge arrears of rent. Therefore, the lease agreement was terminated by a resolution dated 08.10.2018. Subsequently, eviction proceedings were initiated by treating the



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petitioners as encroachers. It is also stated in the impugned order of the first and second respondents that the petitioners had put up superstructure abutting the main wall of the temple with out any permission from temple and therefore, the second respondent was constrained to initiate eviction proceedings.

6. In such circumstances, I do not find any illegality and irregularity in order passed by the first respondent, confirming the order passed by the second respondent. Accordingly, these writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

25.11.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
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To

1. The Commissioner,
Hindu Religious and Charitable Endowments Dept,
Mahatma Gandhi Salai,
Nugambakkam, Chennai - 600 034.
2. The Joint Commissioner,
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S. SOUNTHAR, J.

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