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W.P.No.34191 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :17.12.2024

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.34191 of 2024
and WMP.Nos.37016 and 37017 of 2024

Anguraj

..... petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable Endowment Department,
119, Uthamar Ganthi Road,
Nungambakkam, Chennai.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Erode District.

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Namakkal District.

4.The Executive Officer,
Arulmigu Anjineyar Temple,
Appurayar Sathiram,
Kumarapalayam,
Agraharam,
Namakkal – 638 183.

..... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of



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India, to issue a Writ of Certiorari, to call for the records pertaining to the order dated 06.06.2024 passed in M.P.No.24 of 2023 by the respondent No.2 herein and the consequential Eviction notice dated 04.11.2024 issued by the Respondent No.4 and to quash the same.

For petitioner : Mr.S.Bharanidharan

For Respondents :Mr.K.Karthikeyan
Government Advocate
(HR and CE)

ORDER

This writ petition is filed challenging the order passed by the second respondent ordering eviction of the petitioner from the subject property and the consequential enforcement order passed by the 4th respondent.

2. It is the case of the petitioner that he is the resident of the land situated at S.No.215, Ward C, Block 7, Town Survey No.21B measuring to an extent of 0.0079.5 Sq.mt. The second respondent initiated eviction proceedings against the petitioner under Section 78 of HR and CE Act by issuing notice to the petitioner on 11.11.2022. The petitioner appeared before the second respondent and expressed his willingness to continue as lessee of the site in the 4th respondent temple. However, taking



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into consideration the rent in respect of the subject land was not paid, the 2nd respondent treated the petitioner as encroacher and eviction order was passed. Aggrieved by the same, the petitioner has come before this Court.

3. When the writ petition is taken up for hearing, the learned counsel appearing for the petitioner submits that he is ready to continue as a tenant under the 4th respondent temple and pay fair rent to the 4th respondent temple.

4. The learned Government Advocate appearing for the respondents would submit that there is no lease agreement between the petitioner and the 4th respondent temple and he is in unauthorized occupation of the subject land. Therefore, the second respondent rightly exercised his power under Section 78 of HR and CE Act and passed an order of eviction.

5. Against the impugned order of eviction passed by the second respondent, the petitioner has alternative remedy of filing the revision before the Commissioner under Section 21 of HR and CE.



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Additionally, the petitioner is also having alternative remedy of statutory suit under Section 79(1) of HR and CE Act, if the petitioner denies the title of the temple.

6. In the case on hand, the learned counsel appearing for the petitioner already admitted the title of the 4th respondent temple and agreed that the petitioner is ready to be a lessee under the 4th respondent temple. In such circumstances, the petitioner is not entitled to file any statutory suit under Section 79(1) of HR and CE Act and the only remedy available for the petitioner is to avail revision under Section 21 of HR and CE act.

7. The learned counsel appearing for the petitioner submits that the petitioner has been under impression that the request of the petitioner for regularisation of his occupation will be favorably considered by the respondent and therefore the petitioner has not filed a revision before the first respondent immediately. Now the petitioner expressed his willingness to remain as a lessee under the 4th respondent in respect of the subject property. Therefore, the petitioner is directed to file a revision under Section 21 of HR and CE Act before the first respondent within a period of



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three weeks from the date of receipt of copy of this order. If any such revision is filed by the petitioner within the stipulated period, the first respondent shall consider the same and pass final orders on its own merits.

8. It is also open to the petitioner to make a request before the first respondent seeking regularization of his occupation as a lessee under the 4th respondent temple. If any such request is made by the petitioner before the first respondent, the same shall be considered by the first respondent on its own merits and in accordance with law without being influenced by anything said in this order. The revision to be filed by the petitioner shall be disposed of by the first respondent within a period of six months from the date of filing of revision by the petitioner.

9. As per the impugned eviction order, the petitioner should have filed revision petition before the first respondent within 90 days and the period is already over. In view of the submission made by the learned counsel for the petitioner that he is willing to continue as a lessee, this Court is inclined to condone the delay and permit the petitioner to file revision



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petition before the first respondent within a period of three weeks from today. Therefore, in order to show his bonafide, the petitioner shall deposit a sum of Rs.50,000/- before the 4th respondent temple within a period of two weeks from the date of receipt of copy of this order and produce the receipt along with the revision petition. Only if the deposit receipt is produced by the petitioner, the first respondent shall entertain the revision.

10. It is also open to the petitioner to file a stay application before the first respondent seeking stay of the impugned order. The stay application filed by the petitioner shall be considered on its own merits by the first respondent within a period of four weeks from the date of filing of such stay application. Till the stay application filed by the petitioner is disposed of, the impugned eviction order shall be kept in abeyance. It is needless to say, if the petitioner fails to file a revision before the first respondent, within the time stipulated above, it is open to the second respondent to enforce the eviction order against the petitioner.

11. Accordingly, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.



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Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
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