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W.P.No.35540 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2024

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.35540 of 2024

G.Ramesh

... Petitioner

vs.

1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Chennai

2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Cuddalore

3.The Executive Officer,
Arulmigu Padaleeswarar Temple,
Thirupathiripuliyur,
Cuddalore

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to regularize the petitioner's tenancy by fixing the fair rent by considering his representation dated 27.08.2024.

For Petitioner : M/s.S.Sithirai Anandam
for M/s.P.Eswaran

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

ORDER



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By consent of both the learned counsel appearing for the petitioner as well as respondents, this writ petition is disposed of at the admission stage itself.

2. The petitioner herein seeks a direction to the respondents to regularize the petitioner's tenancy by fixing the fair rent and by considering his representation dated 27.08.2024.

3. It is the case of the petitioner that he is running a Stationery Shop in Shop No.45, Lawrence Road, Thirupapuliyur, Cuddalore, which belongs to the 3rd respondent-Temple. Originally the said shop was let out to the grandfather of petitioner namely Arunachala Chettiar and after his death, the petitioner's father was enjoying the shop as tenant by paying rent to the 3rd respondent-Temple. During the year 1998, there was a leakage of rain water due to dilapidated condition of the building, therefore, the petitioner submitted a representation dated 29.04.1998 before the 3rd respondent seeking permission to repair and renovate the said shop. It is also claimed by the petitioner that the above mentioned shop was rebuilt by him under oral



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permission from the then Executive Officer of the Temple.

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4. In the meantime, the 3rd respondent filed a suit for recovery of possession and arrears of rent against the petitioner in O.S.No.234 of 2004 on the file of the Additional District Munif Court, Cuddalore. The said suit was dismissed by the Trial Court on 28.04.2004. Aggrieved by the same, the 3rd respondent-Temple filed an appeal in A.S.No.38 of 2005 before the I Additional Sub Court, Cuddalore and the first appeal was also dismissed on 28.07.2005. Aggrieved by the same, the 3rd respondent-Temple filed a second appeal before this Court in S.A.No.1560 of 2005. The same was allowed by this Court on 27.03.2019 and the petitioner was directed to handover the possession of the property to the 3rd respondent-Temple. The petitioner was also restrained from altering physical features of building and put up a new construction.

5. Subsequent to the disposal of the second appeal, the 3rd respondent-Temple filed execution petition in E.P.No.2 of 2023 and the same is pending on the execution side of the Trial Court. At this stage, the petitioner submitted a representation dated 27.08.2024 before the 3rd respondent



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seeking regularisation as tenant of 3rd respondent-Temple.

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6. The learned counsel appearing for the petitioner submitted that the petitioner is ready to accept the title of the Temple and pay fair rent to be fixed by the respondents.

7. Mr.K.Karthikeyan, learned Government Advocate (HR and CE), who is taking notice for the respondents would submit that the petitioner denied the right of the Temple and contested the case for nearly 20 years. When the execution petition filed by the 3rd respondent was taken up and delivery was ordered, the petitioner locked the premises and prevented execution of the decree for recovery of possession.

8. It is also seen from the typed-set of papers due to obstruction made by the petitioner, the 3rd respondent-Temple filed applications in pending execution petition seeking police protection and order for break open to effect delivery.



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9. Taking into consideration, the conduct of the petitioner in conducting the case against the 3rd respondent-Temple for nearly 20 years and obstructing the delivery of the property through Court, this Court is not inclined to exercise its discretion in favour of the petitioner and accordingly, the Writ Petition is dismissed. In case, the property is brought for open auction after possession is taken by the 3rd respondent, the petitioner is entitled to participate in the open auction, if he is otherwise eligible. No costs.

28.11.2024

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

To

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S.SOUNTHAR, J.

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