



W.P.No.31345 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.Nos.31345 of 2019
and W.M.P.Nos.31516 and 31517 of 2019**

R.Rajagopal

....Petitioner

Vs.

The Assistant Commissioner-cum-
Fit Person/Executive Officer,
Arulmigu Parthasarathy Swamy Thirukoil,
Triplicane, Chennai-600 005.

....Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records relating to the impugned order of the respondent dated 23.01.2018 in Na.Ka.No.773/2016 A(3) and quash the same.

For Petitioner : Mr.R.Subramanian
for Mr.M.Narayanaswamy

For Respondent : Mr.Wilson Toraz for
M/s.A.S.Kailasam and Associates



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ORDER

This Writ Petition has been filed challenging the impugned notice dated 23.01.2018 issued by the respondent directing the petitioner to pay the arrears of rent for the property situated in Door No.22, Parthasarathy Swamy Kovil Street, Triplicane, Chennai.

2. The learned counsel appearing for the petitioner submits that the petitioner is the owner of the subject property and he purchased the subject property by way of a registered sale deed dated 14.06.1993 from one Giridhar Rao, who is the son of Nagoji Rao. Originally, the property belonged to one T.Ramachandra Rao and he bequeathed the subject property in favour of his son, namely, Nagoji Rao and the Will has been probated in O.P.No.162 of 1973 vide order dated 27.08.1973. The then Trustees of the respondent Temple had earlier filed O.S.No.963 of 1941 before the City Civil Court, Chennai, against Ramachandra Rao, claiming recovery of possession and for damages and it was dismissed holding that the respondent Temple was not entitled to recovery of possession since



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Ramachandra Rao was holding the property as permanent tenure holder, however, the Temple was entitled to seek rent, against which, both the parties have preferred appeals and the same were disposed of based on the compromise memo that Ramachandra Rao has right to hold the subject property as permanent tenure holder and he was directed to pay a sum of Rs.3.80 as quit rent to the Temple. While so, the respondent has issued an order dated 06.06.2003 stating that the judgment and decree of the trial Court is not binding on them for claiming the fair rent, against which, the petitioner has filed W.P.No.38683 of 2003 before this Court and it was disposed of on 18.09.2017, directing the petitioner to file appeal under Section 34-A(3) of the Tamil Nadu Hindu Religious and Charitable Endowments Act. Accordingly, the petitioner has preferred appeal before the Commissioner, Hindu Religious and Charitable Endowments Department and it is pending. Pending the appeal, the respondent has issued the impugned notice dated 23.01.2018 in the name of Ramachandra Rao, who died even prior to 1973, demanding exorbitant rent. Aggrieved by the same, the present Writ Petition has been filed.



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3. The learned counsel appearing for the respondent submits that the trial Court has held that Ramachandra Rao, has right to hold the subject property as permanent tenure holder and he was directed to pay the rent to the Temple. The petitioner claims that he has purchased the subject land from one Giridhar Rao, who is the grand son of T.Ramachandra Rao, however, he has not paid the rent to the respondent. He further submits that after inspecting the subject property on 01.07.2016, the monthly rent was fixed and the property is being used for commercial purpose by the petitioner. Further, the petitioner has not enclosed any receipt with regard to the payment of lease rent. The impugned notice issued by the respondent is valid and proper and therefore, no interference is required.

4. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent and perused the materials available on record.



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5. It is the specific case of the petitioner that the property originally belonged to one T.Ramachandra Rao and he has bequeathed the aforesaid property in favour of his son Nagoji Rao. The petitioner has purchased the property from the son of Nagoji Rao, namely, Giridhar Rao and the Will has been probated vide order dated 27.08.1973 in O.P.No.162 of 1973. While so, the then Trustees had filed O.S.No.963 of 1941 before the City Civil Court, Chennai, against Ramachandra Rao claiming recovery of possession and it was dismissed stating that the then Trustees were not entitled to recover the possession, since Ramachandra Rao was holding the property as permanent tenure holder, however, the Temple was entitled to seek fair rent, against which, both the parties have preferred appeals before the civil Court and they were disposed of based on the compromise memo that Ramachandra Rao has right to hold the property as permanent tenure holder, however, was directed to pay a sum of Rs.3.80 as rent to the Temple.



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6. It is the specific case of the respondent that the land belongs to the temple, and the petitioner's vendor was holding the property as permanent tenure holder and was paying the rent to the Temple, therefore, though the petitioner claims that he has purchased the property from the grand son of the original vendor, the petitioner is bound to pay the lease rent to the respondent. However, the payment of lease rent by the petitioner has not been established resulting in issuance of notice, as it is the specific case of the respondent that lease rent is due since 2016. In such view of the matter, the notice issued by the respondent to the petitioner cannot be said to be erroneous. Further, it is a mere notice which has been issued and if at all the lease rent had been paid by the petitioner, the petitioner could very well go before the respondent and produce receipt of payment thereof, which could very well be considered by the respondent. In such view of the matter, this Court does not find any reason to interfere with the impugned notice.



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7. Accordingly, this Writ Petition is dismissed. There shall be no order as to costs. Connected miscellaneous petitions are closed.

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(2/2)

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No
ssb

To
The Assistant Commissioner-cum-
Fit Person/Executive Officer,
Arulmigu Parthasarathy Swamy Thirukoil,
Triplicane, Chennai-600 005.



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M.DHANDAPANI, J.

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