



WP(MD)No.31294 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.31294 of 2023
and
WMP(MD)Nos.26829, 26830 of 2023

A.Mohamed Ali Jinnah

.. Petitioner

v.

- 1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Chennai – 34.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Madurai.
- 3.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
18, Naachi Street,
Madurai District.

4.C.N.S.Ashok Kumar

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India
seeking issuance of a Writ of Certiorarified Mandamus calling for the records



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relating to the impugned order dated 28.04.2022 bearing No.Miscellaneous Petition No.41 of 2020 on the file of the second respondent and the consequent impugned proceedings bearing Na.Ka.No.2225/2020-1/Aa1 dated 27.11.2023 on the file of the third respondent, quash the same and consequently, directing the second respondent to conduct the proceedings afresh, after giving appropriate opportunity to the petitioner.

For Petitioner : Mr.T.Joshua

For Respondents : Mr.P.Subba Raj,
Special Government Pleader
for R.1 to R.3

Mr.S.Manohar for R.4

ORDER

The petitioner is a tenant of Arulmigu Sri Rajeshwari Thandumariamman Kovil, Madurai / fourth respondent herein. However, the petitioner was treated as an encroacher and the Joint Commissioner / second respondent has initiated proceedings u/s.78 of the Hindu Religious and Charitable Endowments Act. Challenging the show cause notice issued by the second respondent, the petitioner has filed a writ petition in WP(MD)No.4539



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of 2021. The said writ petition was dismissed on 05.03.2021 and the writ appeal preferred by the petitioner challenging the same in WA(MD)No.1780 of 2021 was also dismissed by a Division Bench of this Court on 17.09.2021. Thereafter, the petitioner contested the proceedings initiated u/s.78 of the Act, wherein, the Joint Commissioner, after hearing the parties, passed an order on 28.04.2022. Pursuant to the same, the third respondent has passed the consequential order dated 27.11.2023 directing the petitioner to vacate the premises. Aggrieved, the petitioner has filed this instant writ petition.

2.Learned Counsel for the petitioner submitted that the order dated 28.04.2022 of the Joint Commissioner was not communicated to the petitioner. As against the order of the Joint Commissioner, the petitioner is having an appeal remedy before the Commissioner of Hindu Religious and Charitable Endowments Department. Since the order dated 28.04.2022 was not furnished to the petitioner, he could not file an appeal in time.

3.In view of the above representation made by the petitioner's Counsel, this Court, by order dated 04.01.2024, directed the respondents to file a report



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as to whether the order dated 28.04.2022 passed by the Joint Commissioner was communicated to the petitioner or not.

4.In response to the same, the fourth respondent has filed a report that the order dated 28.04.2022 has been duly communicated to the petitioner's address, which was furnished with the fourth respondent. However, the said communication was returned as insufficient address. He has also produced the endorsement to that effect.

5.Learned Counsel for the fourth respondent further submitted that the petitioner was leased with the Temple property in T.S.No.1850/1 bearing D.No.255-B, Nethaji Road, Madurai, to an extent of 2281 sq.ft, initially for a period of three years. The monthly rent was fixed as Rs.22,500/- with effect from 01.07.2016. As against the same, the petitioner has filed a writ petition before this Court in WP(MD)No.4539 of 2021 and the same was dismissed on 05.03.2021. The writ appeal filed by the petitioner as against the same in WA(MD)No.1780 of 2021 was also dismissed on 17.09.2021. As such, the rent fixed by the Temple has been confirmed and as on date, the petitioner is



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having an arrears to the tune of Rs.15,91,442/-. In the proceedings u/s.78 of the Act before the Joint Commissioner, the petitioner has entered appearance through an Advocate. The Joint Commissioner has granted several adjournments on 20.01.2021, 27.01.2021, 10.02.2021, 24.02.2024, 03.03.2021, 17.03.2021, 24.03.2021, 04.04.2021, 28.04.2021, 04.08.2021, 11.08.2021, 18.08.2021, 08.09.2021. Despite the same the petitioner has not filed any counter statement and only thereafter, the Joint Commissioner has passed the order of eviction on 28.04.2022.

6.This Court paid it's anxious considerations to the rival submissions made on either side.

7.The only ground raised by the petitioner is that the order dated 28.04.2022 passed by the Joint Commissioner was not communicated to him. It appears that the order was communicated to the petitioner's address which was referred in all the proceedings, however, it was returned as insufficient address. The fact remains that the petitioner has participated in the proceedings u/s.78 of the Act before the Joint Commissioner, through an



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Advocate and several adjournments were also granted for filing his counter statement. Therefore, this Court is of the view that the ground of non-communication of the order dated 28.04.2022 raised by the petitioner lacks merits.

Accordingly, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
NCC : Yes / No
Internet : Yes
gk

02.02.2024

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B.PUGALENDHI, J.

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