

S.Thangaraj Vs. the Commissioner

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Court : Chennai

Decided On : Jul-10-2014

Judge : M.Sathyanarayanan

Appellant : S.Thangaraj

Respondent : The Commissioner

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS DATE:

10. 07.2014 CORAM THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN W.P.No.18346 of 2014 and M.P.No.1 of 2014 S.Thangaraj .. Petitioner Versus 1.The Commissioner, Hindu Religious and Charitable Endowment (HR&CE) Department, Nungambakkam, Chennai -34. 2.The Joint Commissioner, Hindu Religious and Charitable Endowment (HR&CE) Department, Kottai Mariamman Temple Complex, Salem-1. 3.Fit Person / Asst.Commissioner (Admn.) Hindu Religious and Charitable Endowment (HR&CE) Department, Kottai Mariamman Temple Complex, Salem-1. 4.The Executive Officer, Arulmigu Vinayagar and Mariamman Vagaiyaraa Temples, Suramangalam Salem 5. 5.The Revenue Divisional Officer, Salem. 6.The Deputy Superintendent of Police, Suramangalam, Salem. 7.The Tahsildar, Salem West, Pallapatti, Salem. .. Respondents Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a writ of Mandamus, directing the 1st respondent to consider and dispose of the petitioners' revision petition No.92 of 2014, filed

against the order dated 13.06.2014 in Misc.Petition No.04/2012/A3, passed by the 2nd respondent and the interim stay petition filed therein, on merits and in accordance with Law within a reasonable period. For Petitioners : Mr.R.Neelakandan For Respondents : Mr.S.Kandasamy Special Govt. Pleader (HR&CE)

ORDER

By consent, the main writ petition itself is taken up for final disposal.

2. It is the case of the petitioner that he is running a Auto workshop in Door No.5 (Old No.68) Azhagapuram Main Road, Suramangalam, Salem 5 and the said property admeasuring to an extent of 84 sq.ft., is situated in Survey No.10/3, Bodinaickenpatti (Suramangalam) Village, Salem Taluk and District.

3. The petitioner would further state that one Periasamy, claimed to be the owner of the said property, had collected rent from him and after the demise of Periasamy, his son Arumugam collected rent from the petitioner and he continue to be in possession and occupation of the shop in question by paying monthly rent to Arumugam. It is also stated by the petitioner that a litigation is pending between the Temple Administration and the said Periasamy and Arumugam, as to the title of the property, which came to be decided in favour of the temple and according to the petitioner, during the pendency of the litigation, the temple administration was very well aware of the possession and enjoyment of the shop in question by the petitioner.

4. The Executive officer of the 4th respondent temple issued a notice on 28.10.2011, calling upon the petitioner to vacate and handover the vacant possession of the shop in the temple premises and in response to the same, the petitioner submitted a representation dated 29.10.2011, to the 2nd respondent, viz., the Joint Commissioner of HR&CE Department, Salem, requesting him to receive the rent and create tenancy in his favor, as he is depending upon the income from the said shop for his livelihood. However, without considering the same, the 3rd respondent passed a resolution dated 28.03.2012, rejecting his request stating that the possession of the petitioner in respect of the shop in

question has not been recognized by the HR&CE Department.

5. The petitioner and other tenants, aggrieved by the orders, filed Revision Petition in R.P.No.92 of 2014, on the file of the 1st respondent by invoking Section 21 of the Tamilnadu Hindu Religious and Charitable Endowments Act, 1959 and also filed Miscellaneous petition numbering 04/2012/A3, for interim stay of the order. Now the apprehension expressed by the petitioner is that since no orders have been passed in the applications filed for interim relief, the petitioner may be dispossessed at any time in terms of the order, which is the subject matter of the challenge in the revision petition and therefore, filed this writ petition.

6. Mr.R.Neelakandan, learned counsel for the petitioner would submit that in view of the order dated 13.06.2014, the petitioner is likely to be dispossessed at any time and challenging the legality of the order, he has also filed a revision petition before the 1st respondent and also moved an application for stay and therefore, the 1st respondent is mandated to pass orders in the application filed for interim relief.

7. On the said submission, Mr.R.Kandasamy, learned Special Government Pleader appearing for HR&CE would submit that revision petition is listed for hearing on 15.07.2014 and appropriate orders may be passed directing the 1st respondent to take up the miscellaneous petition filed for interim relief.

8. Though the petitioner prays for larger relief of directing the 1st respondent to dispose of the revision petition viz. No.92 of 2014, filed for setting aside the order dated 13.06.2014, this Court is of the view that it cannot be passed at this juncture, as the revision petition filed by the petitioner is very recent and very many revision petitions are pending for adjudication. Therefore, it would be suffice to direct the 1st respondent to take up the interlocutory application filed for interim relief and pass orders.

9. In the result, the writ petition is disposed of, directing the 1st respondent to take up the miscellaneous petition for stay / interim relief in Revision Petition No.92 of 2014 filed by the petitioner herein and pass orders on merits and in accordance with law, as expeditiously as possible and not later than four weeks from the date

of receipt of a copy of this order.

10. This Court taking into consideration of the fact that the petitioner, in the affidavit filed in support of the writ petition, has averred that he continues to be in possession of the shop in question, directs the petitioner as wells as the official respondents herein to maintain status quo as on today, till the disposal of the stay petition and it is also made clear M.SATHYANARAYANAN.J, ars that in the interregnum, the petitioner shall not alienate or encumber the shop in question. No costs. Consequently, the connected Miscellaneous Petition is closed. 10.07.2014 Index:Yes/No Internet:Yes/No ars To 1. The Commissioner, Hindu Religious and Charitable Endowment (HR&CE) Department, Nungambakkam, Chennai -34.

2. The Joint Commissioner, Hindu Religious and Charitable Endowment (HR&CE) Department, Kottai Mariamman Temple Complex, Salem-1.

3. Fit Person / Asst.Commissioner (Admn.) Hindu Religious and Charitable Endowment (HR&CE) Department, Kottai Mariamman Temple Complex, Salem-1.

4. The Executive Officer, Arulmigu Vinayagar and Mariamman Vagaiyaraa Temples, Suramangalam, Salem 5.

5. The Revenue Divisional Officer, Salem.

6. The Deputy Superintendent of Police, Suramangalam, Salem.

7. The Tahsildar, Salem West, Pallapatti, Salem. W.P.No.18346 of 2014

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