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Court : Chennai Madurai

Decided On : Jun-21-2016

Judge : M. Venugopal

Appeal No. : W.P(MD)No. 10840 of 2016 & W.M.P(MD)Nos. 8411 & 8412 of 2016

Appellant : V. Subramanian

Respondent : The Joint Commissioner, Hindu Religious and Charitable Endowments Department, Madurai and Others

Judgement :

(Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the first respondent in his proceedings No.Na.Ka.No.9377/2013 E1, dated 16.3.2016 and consequential order issued by the second respondent in Na.Ka.No.4525/2013 A3 dated 6.6.2016 and to quash the same and consequently to forbear the respondents from evicting the Petitioner from the house bearing No.7-4/23-A comprised in S.No.863, situated at Muthukaruppanasamy Temple Street, Uthamapalayam Post, Theni District.)

1. Heard both sides.

2. By consent of both sides, the main Writ Petition itself is taken up for final disposal.
3. According to the Petitioner, he is eking out his livelihood, by washing the temple clothes of Arulmighu Thirukkleswarar and Narasinga Perumal Temple, Uthamapalayam Post, Theni District, for the past forty years. He is receiving a salary of Rs.3,000/-p.m from the Third Respondent. Originally, one Pitchai(Petitioner's uncle) was staying in the Petitioner's Door Number and doing the work of the temple by washing the clothes. After his demise, the Petitioner is washing the clothes of the temple and the same is will within the knowledge of the Third Respondent.
4. The grievance of the Petitioner is that till date, there was no demand of any rent from him by the Third Respondent/The Executive Officer of Arulmighu Thirukkaleswarar and Narasinga Perumal Temple, Uthamapalayam Post, Theni District. The specific case is that there is no necessity for payment of any rent, especially when he is receiving a meagre salary.
5. The Learned Counsel for the Petitioner urges before this Court that the Petitioner cannot be treated as an encroacher and by wrong premise, he is treated as an encroacher and was required to hand-over the vacant possession of the house in question to the Third Respondent within a period of thirty days. In fact, the impugned order dated 6.6.2016 was signed by the Manager of the First Respondent Office only on 28.3.2016.
6. It cannot be disputed that the Petitioner had submitted a representation on 13.6.2016 and the same is still pending. As against the impugned order, dated 6.6.2016, the Petitioner has an effective, efficacious and viable remedy of approaching the appropriate authorities in terms of Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959(hereinafter called as the 'Act'). Without exhausting the remedy of appeal provided under the 'Act', the Petitioner cannot invoke the writ jurisdiction under Article 226 of the Constitution of India.
7. It is to be noted that the above said Act is a self-contained and in-built 'Act'. It has also gives right to the aggrieved to move before the appropriate forum under

the 'Act'. As such, this Court is of the considered view that the Petitioner can very well seek appropriate remedy as against the impugned order, dated 16.03.2016 of the First Respondent and the consequential order, dated 06.06.2016 of the second Respondent, under the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. Viewed in that perspective, this Court directs the Petitioner to approach the concerned authorities for initiating further proceedings by filing an appeal raising all factual and legal pleas in the manner known to Law and in accordance with Law. In this regard, the Petitioner is granted three weeks time. Till such time, the Petitioner shall not be dispossessed from the property in question. It is needless for this Court to make a significant mention that if the Petitioner files an 'Appeal' before the appropriate authority under the Act, then the authorities concerned shall dispose of the appeal after providing due opportunity to the Petitioner and others concerned, if any, in the manner known to law and in accordance with law.

8. With the aforesaid observations and directions, the Writ Petition stands disposed of. Consequently, connected Miscellaneous Petitions are closed. No costs.

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