

Rajikumar.S vs Travancore Devaswom Board

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Court : Kerala

Decided On : Nov-08-2022

Judge : Honourable Mr. Justice Anil K.Narendran, Honourable Mr. Justice P.G. Ajithkumar

Appeal No. : WP(C)/93/2021

Appellant : Rajikumar.S

Respondent : Travancore Devaswom Board

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN & THE HONOURABLE MR.JUSTICE P.G. AJITHKUMAR TUESDAY, THE 8TH DAY OF NOVEMBER 2022/17TH KARTHIKA, 1944 WP(C) NO. 93 OF 2021 PETITIONERS:

1 RAJIKUMAR.S., AGED 51 YEARS, S/O.SIVASANKARAN PILLAI, RAJADHANI, PALLISSERIKAL P.O, SASTHAMCOTTA, KOLLAM ROOM NO. 8 OF SANKARAMANGALAM KAMANKULANGARA DEVASWOM SHOPPING COMPLEX, KAMANKULANGARA, PANMANA VILLAGE, KARUNAGAPALLY 2 SAYEESAN V, AGED 37

YEARS, S/O. M. VASUDEVAN, SAYEE BHAVANAM, THOTTINUVADAKKU, SANKARAMANGALAM, CHAVARA P.O, ROOM NO. 7 OF SANKARAMANGALAM KAMANKULANGARA DEVASWOM SHOPPING COMPLEX, KAMANKULANGARA, PANMANA VILLAGE, KARUNAGAPALLY. BY ADV R.RANJANIE

RESPONDENTS: 1 TRAVANCORE DEVASWOM BOARD NANTHANCOD, KAWDIAR POST, THIRUVANANTHAPURAM 695 003 REPRESENTED BY THE SECRETARY 2 THE ASSISTANT DEVASWOM COMMISSIONER, TRAVANCORE DEVASWOM BOARD, KARUNAGAPALLY DEVASWOM GROUP, KARUNAGAPALLY 691 583 3 SUB GROUP OFFICER, KAMANKULANGARA DEVASWOM, DEVASWOM OFFICE OF TRAVANCORE DEVASWOM BOARD, SANKARAMANGALAM, KARUNAGAPALLY 691 583 -2- *ADDL.R4 THE DEVASWOM COMMISSIONER, TRAVANCORE DEVASWOM BOARD, NANTHANCOD, KAWDIAR POST, THIRUVANANTHAPURAM-695003. (IS SUO MOTU IMPEADED AS PER ORDER DATED 3-1-2022 IN IA 1/2021 IN WP(C) 93/2021). BY ADVS.SRI.G.SANTHOSH KUMAR (P). THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08.11.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -3-

JUDGMENT

Anil K. Narendran, J.

The petitioners, who are in occupation of shop rooms of

Kamankulangara Devaswom Shopping Complex of Kamankulangara Devaswom, which is under the management of the 1st respondent Travancore Devaswom Board, have filed this writ petition under Article 226 of the Constitution of India, seeking a writ of certiorari to quash Exts.P7 to P9 notices, whereby enhanced rate of rent and additional deposit were demanded from the petitioners, and also Ext.P10 order dated

22.05.2020 issued by the 1st respondent Board. The petitioners have also sought for a declaration that the respondents are not entitled in law to enhance/re-fix the rent payable by the occupants of the shop rooms belonging to the 1st respondent Board, and demand additional security deposit from the occupants, that too unilaterally. The further relief

sought for is a writ of mandamus commanding the respondents to execute rent agreement in favour of the 2nd petitioner, for room No.7 of Kamankulangara Devaswom Board Shopping Complex Block No.1, without insisting for any enhancement of rent, over and above the rent paid by the 2nd -4- petitioner from March 2020 @ Rs.5,185/-, or remittance of any security deposit.

2. On 28.10.2021, when this writ petition came up for

consideration, the learned Senior Counsel for the applicant in I.A.No.1 of 2021 (which is an application filed for impleading the applicant as additional 4th respondent in the writ petition) submitted that Rajikumar S., the 1st petitioner in the writ petition, surrendered shop room bearing No.8 in the Kamankulangara Devaswom Shopping Complex to a third party in the year 2005. The learned Standing Counsel for

Travancore Devaswom Board submitted that even now Rajikumar S. continues as the licensee of that shop room. Having considered the submissions made by the learned counsel on both sides, this Court directed the 2nd respondent Assistant Devaswom Commissioner to make available for the perusal of this Court the entire files relating to the shop room in question, in a sealed cover, through the learned Standing Counsel for Travancore Devaswom Board.

3. On 05.11.2021, when this matter taken up for consideration, the learned Standing Counsel for Travancore Devaswom Board made available for the perusal of this Court, -5-

the relevant files, the Rental Register and also the Auction Diary for the period from January 2003. From the records, this Court noticed that even now Rajikumar S. continues as the licensee of the shop room in question. He had executed lease

deed dated 01.03.2005, rent agreement dated 13.05.2009, deed on licence dated 12.04.2011 and also deed of licence dated 20.10.2019. The deed of licence dated 20.10.2019, was valid up to 28.02.2020. On 05.11.2021, after arguing for some time, the learned Senior Counsel for the applicant in I.A.No.1 of 2021 sought time to file an affidavit explaining the

facts and circumstances. The original files handed over by the

learned Standing Counsel were ordered to be kept in safe custody, in a sealed cover, with Registrar (Judicial).

4. On 30.09.2022, when this writ petition came up for consideration along with connected matters, the learned counsel on both sides sought time to address arguments taking note of the law laid down by this Court in Krishnakumar v. Cochin Devaswom Board [2022 (4) KLT 798].

5. Today, when this matter is taken up for consideration, it is submitted by the learned counsel for the -6- petitioners and also the learned Standing Counsel for Travancore Devaswom Board that the entire shopping complex has already been acquired in connection with the widening/four lining of National Highway-66 and the building in question has already been demolished.

6. In such circumstances, this writ petition is disposed of, taking note of the fact that the entire shopping complex has already been acquired in connection with the widening/four lining of National Highway-66 and the building in question has already been demolished. By a separate order of this date, I.A.No.1 of 2022 is

closed, leaving open the legal and factual contentions, since the building has already been demolished, and Registrar (Judicial) is directed to return the original files to the learned Standing Counsel for Travancore Devaswom Board with proper acknowledgment or receipt.

Sd/- ANIL K. NARENDRAN, JUDGE Sd/- P.G. AJITHKUMAR, JUDGE AV/25/11 -
7- APPENDIX OF WP(C) 93/2021 PETITIONER EXHIBITS EXHIBIT P1 THE
PHOTOCOPY OF REQUEST DATED 28-10- 2019 SUBMITTED BY 2ND
PETITIONER BEFORE THE 2ND RESPONDENT EXHIBIT P2 THE

PHOTOCOPY OF COMMUNICATION DATED 23- 1-2020, ISSUED BY THE SECOND RESPONDENT EXHIBIT P3 THE PHOTOCOPY OF THE DEED OF LICENSE DATED 20-10-2019 EXECUTED BY THE FIRST PETITIONER EXHIBIT P4 THE PHOTOCOPY OF RECEIPT EVIDENCING PAYMENT OF RENT BY FIRST PETITIONER, FOR MONTH OF JANUARY, 2020 EXHIBIT P5 THE PHOTOCOPY OF RECEIPT EVIDENCING PAYMENT OF RENT, BY 1ST PETITIONER, FOR THE MONTH OF MARCH, 2020 EXHIBIT P6 THE PHOTOCOPY OF RECEIPT EVIDENCING PAYMENT RENT, FOR MONTH OF MARCH 2020, ISSUED TO FATHEER OF 2ND PETITIONER EXHIBIT P7 THE PHOTOCOPY OF NOTICE DATED 15-6-2020² ISSUED BY 2ND RESPONDENT FOR ROOM NO. 8 EXHIBIT P8 THE PHOTOCOPY OF NOTICE DATED 28-11-2020, ISSUED BY THE 3RD RESPONDENT FOR ROOM NO. 8 EXHIBIT P9 THE PHOTOCOPY OF NOTICE DATED 28-11-2020 ISSUED BY THE THIRD RESPONDENT FOR ROOM NO. 7 EXHIBIT P10 THE PHOTOCOPY OF ORDER DATED 22-05-2020, BEARING NO. ROC 3939/20/M OF THE FIRST RESPONDENT BOARD

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