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WP(MD)No.11819 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.11819 of 2023
and W.M.P(MD).Nos.10216 and 22859 of 2023

V.Ayothiraj

.. Petitioner

vs.

The Joint Commissioner/Executive Officer,
Arulmigu Ramanatha Swami Temple,
Rameswaram,
Ramanathapuram District.

.. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus, directing the respondent to permit the petitioner to run the canteen at the outside of Arulmigu Ramanatha Swami Temple, Rameshwaram, for the complete period of 36 months commencing the period from 24.12.2021 onwards in view of peculiar situation and by considering the petitioner's representation dated 13.04.2023 within the period that may be stipulated by this Court.

For Petitioner : Mr.Ajmal Khan
for Mr.C.Venkatesh Kumar

For Respondents : Mr.S.Ramesh



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ORDER

This Writ Petition has been filed seeking a direction to the respondent to permit the petitioner to run a canteen outside of Arulmigu Ramanathaswami Temple, Rameshwaram, for a period of 36 months commencing from 24.12.2021.

2. The petitioner is a licensee to run the canteen of Arulmigu Ramanathaswami Temple, Rameshwaram, and he was granted license for a period of three years in the auction conducted by the respondent Temple on 21.08.2020. The petitioner has quoted a sum of Rs.15,84,000/- (Rupees Fifteen Lakhs Eighty Four Thousand only) as license fee for the fasli year 1430 and agreed to pay 15% excess for the fasli years 1431 and 1432. Fasli year 1430 has to commence from 01.07.2020 to 30.06.2021. However, due to the pandemic condition, there was a delay in handing over the property and he was permitted to run the canteen from 24.12.2021. Therefore, the petitioner has made a request to permit him to run the canteen for a period of three years commencing from 24.12.2021, by considering his representation dated 13.04.2023.



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3. The learned Senior Counsel appearing for the petitioner, by referring to the proceedings of the Commissioner, Chennai, in Mu.Mu.No.24409/2022/Z4 dated 02.11.2022, submits that though auction was conducted on 21.08.2020, the Commissioner has approved the tender only on 12.02.2021 and thereafter, the canteen could not be opened in view of the Covid-19 condition. Considering this situation, exemption was also provided waiving the rent from 12.02.2021 to 30.11.2021. According to the learned Senior Counsel, the petitioner was permitted to open the canteen only from 1st of December 2021.

4. The learned counsel appearing for the respondent Temple denied the same and submits that the tender was invited for three fasli years commencing from 01.07.2020 and the key was handed over to the petitioner immediately after the payment of earnest money. As per the tender condition, the petitioner has to pay the lease amount immediate to the auction on 21.08.2020, however, he paid the amount only on 17.09.2020 and therefore, the proposal for confirmation of auction was made to the Commissioner after his payment on 17.09.2020.

5. This Court considered the rival submissions made and perused the materials available on record.



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6. The respondent Temple has auctioned the canteen of the Temple for the fasli years 1430, 1431 and 1432. The fasli year 1430 has to commence from 1st July 2020. For the fasli year 1430, auction was conducted only on 21.08.2020. Due to Covid-19 pandemic condition, the confirmation was also delayed and confirmed by the Commissioner only in the month of February 2021. Even thereafter, the canteen was not opened due to Covid and the Commissioner has also waived the rent for those period from 12.02.2021 to 30.11.2021, vide his proceedings, dated 02.11.2022. The petitioner claims that he is running the canteen from 01.12.2021, however, he paid the license fee of Rs.15,84,000/- for the fasli year 1430 on 17.09.2020.

7. There is no fault on the petitioner as well as the respondents. It is only due to peculiar circumstance of pandemic. In order to give a quietus to this issue, this Court deems it fit to direct the respondent to permit the petitioner to run the canteen till **31.03.2024**. The petitioner shall file an affidavit of undertaking before the Joint Commissioner that he would vacate the premises and hand over the same on or before **31.03.2024** and he would pay the rent without fail by adding 15% to the existing rent for the fasli year 1432 and that too, in advance, within a period of



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two weeks from the date of receipt of a copy of this order. In the event, if the petitioner is not paying the amount in advance as directed by this Court, the respondent shall take possession of the property forthwith. This concession is provided to the petitioner, in view of the extraordinary circumstances of Covid-19 and this order cannot be cited as a precedent in any other case.

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

Index : Yes / No
NCC : Yes / No
Internet : Yes
ssb

05.12.2023

Note: Issue order copy on **24.01.2024**.

To

The Joint Commissioner/Executive Officer,
Arulmigu Ramanatha Swami Temple,
Rameswaram,
Ramanathapuram District.



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B.PUGALENDHI, J.

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