



WP(MD)Nos.30059 to 30061 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)Nos.30059 to 30061 of 2023

G.Iyyappan	... Petitioner
	in WP(MD)No.30059 of 2023
S.Kathirvel	... Petitioner
	in WP(MD)No.30060 of 2023
Murugesan	... Petitioner
	in WP(MD)No.30061 of 2023

Vs

1.The District Collector,
Collectorate,
Tenkasi - 627 811.

2.The Joint Commissioner [HR and CE],
Kokkirakulam,
Tirunelveli - 627 002.

3.The Special Tahsildar[HR and CE]
Tenkasi District.

4.The Executive Officer,
HR and CE, Sri Thiru Courtalla Natha Swami Thirukoil,
NO.1, Sannathi Street,
Courtallam, Tenkasi - 627 802.

5.The Executive Engineer,
TNEB, Tenkasi.

6.The Deputy Superintendent of Police,
Tenkasi.

... Respondents
in all Writ Petitions

[R6 was *suo motu* impleaded vide
court order dated 15.12.2023]



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COMMON PRAYER: Writ Petitions are filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the respondents 2 to 4 to follow the stipulations laid in their guidelines subsequently give priority to the shop holder who had lost their shops due to the fire accident happened on 25.08.2023.

For petitioner : Mrs.Rekha Sivakumar
For Respondent : Mr.G.V.Vairam Santhosh
No.1 Additional Government Pleader
For Respondent : Mr.P.Subburaj,
Nos.2 and 3 Special Government Pleader
For Respondent : Mr.Karthigai Venkatachalapathy,
No.4
For Respondent : Mr.Deenadhaylan
No.5

COMMON ORDER

The petitioners are licensees of the shops at Courtallam in the temple premises of Thirukutralanatha Swamy. This temple is situated just opposite to the main falls, which is having several lands around the temple. The temple administration is permitting shops in the temple lands. These shops are allotted through public auction.



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2.The petitioners, who have participated in the previous year auction have taken the shops this year also. As per affidavit of the petitioners Iyyappan and S.Kathirvel, they each has taken three shops in the auction in their names and in their friends names. Having taken the shops, they have also invested a sum of Rs.65,00,000/- for running these shops.

3.While so on 25.08.2023 a fire accident occurred in the shops, due to which, the fire gutted all the shops including the petitioners' shops. Therefore the petitioners have submitted representations to the respondent temple to extend the lease period of their shops to compensate remaining lease period, which they could not do their business, due to the fire accident and they have also filed writ petitions before this Court in WP(MD)Nos.26299 to 26302 of 2023 challenging the order dated 08.09.2023 in Ref.Na.Ka.No.38/2023 passed by the Executive Officer of the temple. This Court has granted an interim stay restraining the respondents from conducting auction, which was challenged before the Division Bench of this Court and the



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Division Bench of this Court has stayed the interim order.

Therefore the temple administration is intending to proceed with the auction without considering the representation of the petitioners. Therefore these writ petitioners have submitted their further representations to the respondents requesting to give preference in the auction to be conducted by taking into consideration the loss suffered by them on account of the fire accident and have filed these writ petitions for a writ of mandamus directing the respondents to consider their representations and to give priority to the shop holders, who had suffered loss due to the fire accident on 25.08.2023.

4. The learned Counsel for the 4th respondent temple submits that since the orders of this Court was stayed by the Division Bench of this Court, the temple administration has proposed to conduct a fresh auction today, ie., on 21.12.2023. Considering the number of devotees visiting the temple during November and December months of every year, the auction for these shops is conducted every year with the lease period of 15th November to 20th January.



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This lease period is a very short period and the major part of the lease period is already over. Therefore, they have to take a decision whether to conduct the auction or not.

5.The learned Special Government Pleader appearing for the respondents 2 and 3 submits that the immovable properties of the temple are leased out to the individuals through public auction as per Rule 11 of the Religious Institutions (Lease of Immovable Property) Rules, 1963. As per the said Rules, the lease of any property shall be given only through public auction and if any lease is granted without conducting public auction, the same shall be considered as illegal. The Commissioner by his proceedings dated 01.07.2022 delegated the powers to the Joint Commissioner for approval of this public auction upto Rs.5 Lakh per year. He further submits that more people will be visiting Courtallam during two seasons, namely rainy season between June and September and winter season between 15th November and 20th January every year. Therefore the auction for the shops for these two seasons would be conducted during June and September of every year.



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Accordingly, this year auction was conducted and shops were allotted and due to the fire accident on 25.08.2023, all the shops were destroyed. Therefore notice was issued on 20.10.2023 for conducting fresh auction for these two seasons. The auction notice was challenged before this Court and it was stayed by this Court in WP(MD)Nos.26299 of 2023 etc.,. Since these two seasons last only for a limited period, the temple administration has filed writ appeals before this Court as against the interim stay granted by this Court. The Division Bench of this Court granted an interim order staying the order passed in WP(MD)No.26299 of 2023. Therefore, the subsequent notification has been issued by the temple administration for conducting auction on 21.12.2023, ie., today and the same has now been dropped, considering the remaining period of 25 days of the winter season.

6.The learned Counsel further submits that there is no possibility for conducting e-auction for these temple shops. However they are adopting a common tender cum auction process and to that effect circulars have been



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issued by the Commissioner on 03.07.1999, 05.12.2005 and on 19.08.2021.

7. The learned Government Advocate (Crl Side) appearing for the 6th respondent has filed the status report stating that the shops of the Thirukutralanatha Swamy temple were destroyed in the fire accident, which took place on 25.08.2023. Based on the complaint of the Village Administrative Officer, Courtallam a case was registered on 26.08.2023 in Crime No.283 of 2023. According to him, 36 shops were totally destroyed in the fire accident and out of which, shop Nos.15,16,18 and 75 are snacks shops. They were using LPG cylinders and induction stoves for preparation and cooking of snacks. He also stated that most of the shops were sub-leased by the original lessees. The temple administration and the officers did not follow the conditions properly. Further the electricity connection has been obtained for these temporary shops. The investigation reveals that the fire broke out from shop No.23. The investigation is completed and final report has been filed as against the petitioner Iyyappan before the



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Judicial Magistrate, Sivagangai, Tenkasi on 07.12.2023.

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8.This Court considered the rival submissions and perused the materials placed on record.

9.The 4th respondent the Executive Officer of Arulmigu Thirukutraleeswarar Temple submits that there are shops in front of the temple and these shops are leased out during June to September and November to January. Since Courtallam is a tourist place, the shops are leased out during these seasons. The devotees, who are visiting the Sri Ayyappan Temple at Sabarimalai, will also be visiting Courtallam between November 15 and January 20. Considering the number of devotees visiting Courtallam during this season, the temple administration is conducting another auction for the remaining period from November 15 to January 20.

10.Unfortunately in this year the shops which were leased out during the 1st season between June and September, were destroyed, due to the fire accident taken place on



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25.08.2023. The petitioners and other lease holders have approached the temple administration that in view of the fire accident they could not run the shops for the entire lease period and have requested to give them priority in the auction during this season, which was not considered by the temple administration. Therefore they have initially filed a batch of writ petitions before this Court and this Court has granted interim order restraining the respondents from conducting any public auction for this season in WP(MD)Nos.26299 to 26302 of 2023 by order dated 2.11.2023. This order has been challenged before the Division Bench of this Court and the Division Bench of this Court has granted an order of interim stay. Therefore the 4th respondent has issued further notification for conducting public auction. Hence the petitioners have again submitted representations for providing them some priority and approached this Court with these writ petitions.

11.The Courtallanatha swami thirukovil is one of the ancient Shiva temples in Tamil Nadu. This temple is situated just opposite to the main falls at Courtallam and



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is having vast extent of land in Courtallam. The temple administration lease out these temple shops during the two seasons and thereby generating income.

12.The Executive Officer has also been appointed to maintain the temple, the temple properties and to provide necessary facilities for the devotees visiting the temple. Unfortunately, the department is particular in augmenting the revenue through the temple properties, instead of considering the devotees, who are visiting the temple. When several lakh people are visiting Courtallam during the seasons, only few hundreds people are visiting this temple. The alongside of the road towards the temple is fully packed with shops without leaving sufficient space for the devotees to reach the temple. Neither the Executive Officer nor the Joint Commissioner, Hindu Religious and Charitable Endowments Department is having any concern in the manner in which the shops are allotted. Not even a sign board has been placed near the temple or near the falls exhibiting the famous Chitira Sabai, which is available adjacent to this temple. This is one of the five Sabas of Arulmigu



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Nataraja. The temple administration knowing that there is demand for the shops, has not taken any steps to construct permanent structures in the temple lands. Instead they are conducting auction during these seasons and permitting the lessees to put up the shops to their whims and fancies. The lessees are also using these shops for preparing snacks and other eatables by using the LPG cylinders. Due to the negligence of the lessees fire accident has taken place on 25.08.2003 and in that fire accident almost all the shops were destroyed. That apart the temple administration has leased out the shops even without constructing any wall, fence or boundary and the temple wall is used as the enclosure for the shops.

13.The Deputy Superintendent of Police, Tenkasi, who is present before this Court has stated that not less than 10 LPG cylinders were recovered near the compound wall of this temple. If any of these cylinders was bursted, the entire temple would have been collapsed in the blast.



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14. In the earlier round of litigation, this Court has appointed Mr. TSR. Venkat Ramana, Senior Advocate as Amicus Curie, who hails from Tenkasi and also an Ex-member of Legislative Assembly of Tenkasi constituency and requested him to visit the place and file his report. Mr. RM. Arun Swaminathan, who was appointed as Amicus Curie by the Division Bench of this Court in the similar issue on the temple was also appointed. From the report of the amicus, it appears that the outer wall of the temple was affected in the fire accident. However, the temple administration without renovating the temple, was in a hurry to conduct public auction.

15. The Inspector of Police, Courtallam Police Station has filed a counter affidavit that most of the shops were run by the sub lessees and most of the shops were also tea stalls and snacks shops. Even the person from other religions were also permitted to run the shops. One Sahul Hameed has filed an affidavit before this Court that he has obtained sub-lease from Ganesan Pandian for the shop No.74 and has also obtained permission to run the shop No.74 by



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paying Rs.5 lakh to the Executive Officer. However in respect of the shop No.74, it has been recorded that there was no bidder for the shop. 15 shops among the 157 shops were recorded as there was no bidder. But the fact is otherwise.

16. These shops have been allotted to various other religious people by receiving extraneous consideration from them. The temple administration is very particular in conducting auction, even after the fire accident, without repairing the damages. The temple administration has not realised the consequence of leasing out these temporary shops and has not come forward with a proposal to construct a permanent structure and they are prepared to proceed further with the auction for generating income during these seasons. The people who are visiting Iyyappan temple also are visiting Courtallam. Even the pilgrims who visit Courtallam, rarely visit this Courtallanathar temple. This is how the temple administration is administering the temple and without even providing any convenience to the devotees who visit this temple. Along with these writ



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petitions, a typed set of paper with certain photographs are also filed. The photographs expose that temple shops were permitted to be established abutting the temple. The shops occupy the space on either of the road 10 ft alone is left as pathway to reach the temple. The temple is not visible, shops are dominating, there is no signboards or any boards on the specialities of the temple.

17.The petitioners have also enclosed the report of the Amicus curiea filed in the earlier writ petitions along with photograph, which exposes the manner in which the Madappalli is maintained and the prasadam were prepared. The food is prepared in Madappalli and it is offered to the deity distributed to the devotees. The Food Inspector concerned has issued notice to the temple administration. Even thereafter the temple administration has not rectified the defects.

18.From the materials placed on record it can be seen that only 3 persons have taken these shops in the public auction and they sub-leased the shops to others. Most of



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the shops taken for lease for Rs.1 or 2 lakh in the public auction has been sub-leased to others for upto for Rs.5 lakh. Some of the shops were not shown in the auction list, but these shops were allotted to the adjacent shop owners by receiving money without any records.

19.The present method of conducting auction by the temple administration is not proper and not transparent. Only few people are taking part in the auction. If the department is really interested in augmenting revenue to the temple, the auction shall be conducted in a fair and transparent manner through online.

20.Now it is reported by the investigating agency that the fire accident took place from the one of the petitioner's shop in shop No.23 and they have also filed the final report as against this petitioner.

21.The fact remains that 15 other religious people were also permitted to run the shops, despite the condition of the lease not to permit any other religious people than Hindus.



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22.Though it is specifically mentioned in the tender notification that one shop will be allotted to one person, in reality all the shops were taken only by three persons in their names and in the names of their Binamis. The temple administration has to generate income for the temple out of its properties. At the same time, the purpose of establishing this Hindu Religious and Charitable Endowments Department is not meant of making money, but to maintain and administrate the temples and its properties. If the temple is having sufficient space near main falls, it can be used for constructing permanent shops, leaving sufficient space for the temple and these shops shall be allotted by way of fair and transparent auction through online.

23.It is stated that electricity service connection was also provided to these temporary shops in the individual lessee names for a period of 2 or 3 months. For getting these temporary connections also the lessees are paying huge money to the TNEB. This can be avoided establishing up permanent structures by the temple administration.



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The temple administration shall also restrict the number of shops. So that the auction amount would be increased and the temple administration may get more income without any loss of revenue and service connection has to be provided only in the name of the temple and not in the names of the individuals.

24. The department has to conduct enquiry in the manner in which the lease has been granted to other religious persons by recording that there was no bidder for several shops. The department has to evolve guidelines for conducting public auction throughout the State. The report available in the typed set of papers reveals the manner in which the madappalli is being maintained in this temple. The Department of Hindu Religious and Charitable Endowments Department has installed machineries at Arulmigu Meenakshi Amman Temple for preparing Prasadam on its own and also getting substantial revenue from this prasadam. This method shall also be adopted in all the major temples and the HR and CE Department shall ensure that the prasadam is prepared by the temple itself and distributed to the



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devotees. If it is prepared by the contractors, the quality of the same shall be ensured. The HR and CE Department shall also address this issue.

25. Since the respondent Police has filed the final report as against one of these lessees, this court is not inclined to grant any relief to the petitioner. However, the 4th respondent shall consider the case of the petitioners that they could not run the shops for 35 days, due to the fire accident, they have to return the lease amount for the lease period concerned.

26. In the result, these writ petitions are disposed of with the above directions. No costs.

21.12.2023

dsk

Internet : Yes / No
Index : Yes / No



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Collectorate,
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B.PUGALENDHI, J.

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