

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

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WRIT PETITION No.8156 of 2005

ORDER:

This Writ Petition is filed seeking the following relief/s:-

“To issue a writ, order or direction more particularly in the nature of writ of Mandamus:

- a. **To declare the action of the respondents No.1 to 3 in not taking the lands of the subject temple from the respondents from the Archakas of the 3rd respondent temple as per Section 144 of the Endowment Act as illegal, void and consequently direct the respondent No.3 to adhere the Section 144 of the Endowments Act and to take the lands of the subject temple to an extent of Ac.71.43 Cents from the Archakas;**
- b. **To declare the impugned order D.Dis No.D3/38475/04, dated 06.10.2004 of the 1st respondent as illegal, void ab-initio as it is not only against to the Statute but also amounts to contempt of this Hon'ble Court as well as the Hon'ble Supreme Court and consequently set aside the same by issuing a writ of Mandamus;**
- c. **To declare the action of the respondents No.4 to 8 in trying to dispossess the petitioners from the leased lands as illegal and abuse of due process of law and consequently direct the respondent No.4 not to interfere with the peaceful possession and enjoyment of the petitioners on the said lands by issuing any other appropriate order or orders”**

2. Counter affidavits are filed on behalf of the respondents 1, 3 and 10.

3. I have heard the submissions of the learned counsel for the writ petitioners and the learned Standing Counsel for the third respondent-Temple.

4. The learned counsel for the writ petitioners would submit that the writ petitioners are in possession of the subject leasehold lands and that the action of the 1st respondent in issuing the order dated 06.10.2004, which is impugned, and that the further action of the 4th respondent in trying to dispossess the petitioners from the subject leasehold lands are illegal and are an abuse of process of law and that in the facts and circumstances of the case, the grievance of the writ petitioners would be redressed if a direction is given to the respondents concerned to conduct a public auction of the leasehold rights of the subject lands giving an opportunity to the writ

petitioners to participate in the public auction as and when held and permitting the petitioners to continue in possession of the subject property till such time the highest bidder in the public auction becomes entitled to obtain possession of the subject property.

5 . During the course of hearing, the learned Standing Counsel for the third respondent-Temple had filed an additional affidavit on behalf of the third respondent along with the proceedings in R.Dis.No.D3/17802/2005 dated 27.10.2005. In the additional affidavit of K. Siva Kumar, presently working as the Executive Officer of the third respondent-Temple filed today, it is stated as follows:-

“...the impugned proceedings which the petitioners have challenged in the present writ petition was already cancelled by the Commissioner, Endowments Department, and has issued a fresh proceedings in R.Dis.No.D3/17802/2005 dated 27.10.2005, to take over the possession of the subject lands from the Archakas and fix pay scales to the 5 Archakas and hence the present writ petition becomes infructuous as the impugned proceedings itself was cancelled.”

[Reproduced verbatim]

6. The contention of the writ petitioners during the course of hearing also is that if public auction of the leasehold rights of the subject land is conducted, the ends of justice would be met as the writ petitioners are also prepared to participate in the public auction that may be held. The learned Standing Counsel for the third respondent-Temple would submit that public auction for leasehold rights of the subject lands would be conducted as stated in the proceedings referred to *supra*. In the proceedings it is *inter alia* stated that the Executive Officer is further instructed to put the lands to public auction or sale as per common judgment/orders dated 04.11.1998 in WP.Nos.25438, 23558, 25499 of 1998 of this Court and then fix pay scales to the Archakas as per the cadre strength already approved.

7. In view of the submissions of the learned counsel for both the sides that the cause in the writ petition does not survive for adjudication, the Writ Petition is disposed of directing the Executive Officer of the third respondent-Temple to put the leasehold rights of the subject lands to public auction as directed in the relevant proceedings. It

is made clear that the petitioners are also entitled to participate in the public auction as and when held and that the petitioners are entitled to be in occupation of the subject lands only till a lease agreement is entered into with the highest bidder in the public auction, and not thereafter, in case a third party becomes the successful bidder and not the petitioners. There shall be no order as to costs.

Miscellaneous petitions pending, if any, in this writ petition shall stand closed.

M.Seetharama Murti, J

13th November, 2015

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