



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.09.2018

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CORAM:

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA
AND
THE HONOURABLE MRS. JUSTICE T. KRISHNAVALLI

W.A. (MD) .Nos.61 to 64 of 2018
and
C.M.P. (MD) .Nos.301 to 304 of 2018

The Executive Officer,
Sri Thiruvazhutheswarar
Perianayagi Amman Devasthanam
Earvadi, Nanguneri Taluk,
Tirunelveli District.

... Appellant/3rd Respondent in all cases

vs.

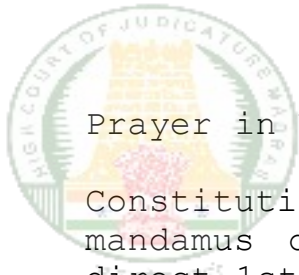
1.V.Narayanan	... Respondent/Writ petitioner in W.A. (MD) .No.61/18
2.V.Jeyapandi	... Respondent/Writ petitioner in W.A. (MD) .No.62/18
3.P.Sankaravel	... Respondent/Writ Petitioner in W.A. (MD) .No.63/18
4.V.Subbammal	... Respondent/Writ Petitioner in W.A. (MD) .No.64/18

2.The Executive Engineer,
Distribution,
TANGEDCO Valliyoor,
Tirunelveli District.

3.The Village Administrative Officer,
Kovilammalpuram Village,
Mavadi Via, Nanguneri Taluk,
Tirunelveli District.

... Respondents 2&3/Respondents 1&2
in all cases

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent,
against the order passed by this Court in W.P.(MD).Nos.9420 of
2017, W.P.(MD).No.9421 of 2017, W.P.(MD).No.9422 of 2017 and W.P.
(MD).No.9423 of 17, dated 30.05.2017.



Prayer in WP(MD). 9420/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of mandamus directing the 3rd respondent to issue Noc and further direct 1st respondent to provide electricity supply in the name of petitioner for agriculture purpose as per regulation 27(2) of the Tamil Nadu Electricity Distribution Code to the petitioner's well situated in s.no.246, Savalaikarankulam Village, Nanguneri Taluk, Tirunelveli district within the time.

Prayer in WP(MD). 9421/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Mandamus directing the 3rd respondent to issue NOC and further direct 1st respondent to provide electricity supply in the name of petitioner for agriculture purpose as per Regulation 27(2) of the Tamil Nadu Electricity Distribution Code to the petitioners Bore Well situated in S.No.264, Savalaikarankulam Village, Nanguneri Taluk, Tirunelveli District.

Prayer in WP(MD). 9422/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Mandamus directing the 3rd respondent to issue NOC and further direct 1st respondent to provide electricity supply in the name of petitioner for agriculture purpose as per Regulation 27(2) of the Tamil Nadu Electricity Distribution Code to the petitioners Well situated in S.No.265 and 266, Savalaikarankulam Village, Nanguneri Taluk, Tirunelveli District.

Prayer in WP(MD). 9423/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of mandamus directing the 3rd respondent to issue noc and further direct 1st respondent to provide electricity supply in the name of petitioner for agriculture purpose as per regulation 27(2) of the Tamil Nadu Electricity Distribution Code to the petitioner's well situated in s.no.250, Savalaikarankulam Village, Nanguneri Tlauk, Tirunelveli district.

For Appellant in

all cases : Mr.K.Sathiya Singh

For R1 in all

cases : Mr.H.Arumugam

For R2 in all

cases : Mrs.S.Srimathi

For R3 in all

cases : Mr.Aairam K Selvakumar

Additional Government Pleader

COMMON JUDGMENT

[Judgment of the Court was delivered by PUSHPA SATHYANARAYANA, J.]

These writ appeals are filed against the order of this Court dated 30.05.2017 passed in W.P.(MD).Nos.9420 of 2017, W.P.(MD).No.9421 of 2017, W.P.(MD).No.9422 of 2017 and W.P.(MD).No.9423 of 2017.

2.The respondents in the writ appeals are the cultivating tenants of the appellant Temple, which is Sri Thiruvazhutheswarar Perianayagi Amman Devasthanam, Earvadi, Nanguneri Taluk, Tirunelveli District. The lands, which are in possession of the respondents, are situated in Savalaikarankulam Village, Nanguneri Taluk, Tirunelveli District. The claim of the respondents, who are the writ petitioners is that they are the cultivating tenants for more than 200 years.

3.In the writ petitions, a direction has been sought for to issue No Objection Certificate(NOC) to the respondents/writ petitioners and to direct the first respondent therein to provide electricity supply in the name of the writ petitioners as per Regulation 27(2) of the Tamil Nadu Electricity Distribution Code, to the writ petitioner's Bore Well. Even though the respondents/writ petitioners have dug the Well and Bore Wells without electricity, they are unable to take the water from their Wells. When they requested the third respondent therein to issue NOC to get electricity connection to their Wells, he demanded remittance of the arrears of rent for so many years, only after which, NOC could be issued.

4.It is the case of the writ petitioners/tenants that the appellant cannot claim the rent beyond the period of three years, as per Article 52 of the Limitation Act, 1963, which provides only for three years, from which the period begins to run for collecting the arrears of rent. Hence, it is contended that the payment of arrears beyond the period of limitation is illegal. The tenants have admitted the ownership, however when they are due to pay the rent, due to failure of monsoon, they could not pay. The appellant also had to be found fault with for not taking immediate action for the arrears, that had fallen due. However, the writ petitions were allowed considering the payment of rent for the Fasli years 1424, 1425 and 1426 for issuing NOC and further directions were given to the appellant to issue NOC for obtaining the electricity supply. The said order was put to challenge in these writ appeals.

5.After hearing the learned counsels for a while, it is agreed by the respondents/tenants that they would pay the rent, which is more than 12 years. As per Article 52 of the Limitation Act, the period of limitation provided for recovery of arrears of rent is only three years, the respondents in these appeals agreed to pay the rent from Fasli years 1416 to 1427.



6.The appellant also furnished a status report filed by the Joint Commissioner of Hindu Religious and Charitable Endowment Department, Tirunelveli, dated 03.09.2018, wherein, the details of the tenants of the appellant Temple with payment of past and present rents have been indicated in Paragraph No.8, which are in terms of paddy measured in Kottah. Though the said report was disputed by the respondents/tenants, they offered to pay arrears of rent for 12 years, out of which, already arrears were paid for 5 years.

7.Realizing the fact that the appellant can recover the arrears of rent only for three years as per Article 52 of the Limitation Act, the appellant agreed to receive the past arrears also. It is pointed out by the learned counsel for the respondents/tenants that there was a peace committee meeting conducted on 27.02.2004 in which, it was agreed that for each 8 cents 2 marakkal paddy or the money equivalent of the same, should be paid.

8.The learned counsel appearing for the respondents/tenants in all the writ appeals, have filed a memo dated 28.09.2018, which is pertaining the terms of payment, which are as follows:

"Memo filed on behalf of the first respondent/Writ Petitioners

1.The 1st respondent in all appeals, agreed to pay the rental arrears for a period of 12 Fasli years commencing from 1416 to 1427 claimed by the appellant.

2.Out of 12 years, the 1st respondent has admittedly paid the rent amount, as per the decision of Peace Committee Meeting dated 27.02.2004 for 5 Fasli years and 2 Fasli years have been declared as drought by the Government.

3.For remaining 5 Fasli years the respective 1st respondent, pays 3 Fasli years rent through demand draft.

4.For the remaining 3 Fasli years the first respondent undertakes to pay the rental amount within a period of 3 months.

5.The statement showing the details of rent per Fasli and the amount in cash equal to Rs.2,200/- per Kottah in respect of each tenant is as follows:

Sl. No.	Name	W.A. (MD) No.	Extent of land Acre. Cents	Rent as per Peace Committee		Amount per Fasli
				Kottah	Marakkal	
1.	Narayanan	61/2018	3.20	4		8,800/-
2.	Jeyapandi	62/2018	0.52		16	1,680/-
3.	Sankaravel	63/2018	0.24		6	630/-
4.	Subbammal	64/2018	2.34	2.16		5,880/-



6. On payment of amount today for a period of 3 years through D.D., dated 10.09.2018, the arrears of 10 years are paid and the remaining two years ie., fasli 1426 and 1427 will be paid as mentioned in clause 4 of above."

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9. As per the above memo, it is stated that Rs.16,990/- is payable for each year and for three years Rs.50,970/- is payable by all the tenants per annum and the said amount payable today by way of Demand Drafts and the details are as follows:

S.No.	D.D.Number	Amount
1.	"932672"	Rs.1,890/-
2.	"932647"	Rs.17,640/-
3.	"932648"	Rs.5,040/-
4.	"932649"	Rs.26,400/-

Though there are 12 years of arrears admittedly for 5 Fasli years had already been paid, today the arrears for three years is paid and the same is acknowledged by the appellant also. For two Fasli years there was a drought declared by the Government and the arrears of rent was not paid. Now, the outstanding is only for 2 more years relating to Fasli years 1426 and 1427, as per clause 4 of the above said Memorandum. The first respondent in all the appeals undertakes to pay the arrears within a period of three months from today. Though the learned counsel appearing for the respondents/tenants paid for the same considering the fact that the tenants have come forward to pay the past arrears, this Court is of the view that the terms indicated in the Memorandum may be accepted.

10. The rent payable was calculated based on the peace committee meeting dated 27.02.2004. In the said meeting, the rent payable was decided only for Fasli 1413. From Fasli year 1414, it was open to the Joint Commissioner of HR&CE Department to decide the same. However, admittedly the appellant has not decided so far the rent payable. Hence, there may be a direction to the appellant Temple to decide the rent payable from Fasli 1248 by the first respondent/tenants. The appellant is further directed to decide the same within a period of three months from the date of receipt of a copy of this order and indicate the details to all the first respondent in the appeals enabling them to be prepared for the payment when it falls due. As per the undertaking, the appellant is directed to issue NOC to the respondents/tenants for getting electricity supply in their names for their respective lands in possession. This Court also directs the second respondent, who is the Executive Engineer, Tirunelveli District to give electricity connection to all the respondents/tenants for agricultural purpose for production of NOC. The said exercise shall be done by the appellant within a period of two months thereafter.



11. With the above direction, these appeals are disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (CS-I)

/TRUE COPY/

Sub Assistant Registrar (CS-I)

To

The Village Administrative Officer,
Kovilammalpuram Village,
Mavadi Via, Nanguneri Taluk,
Tirunelveli District.

+3. C.C. to M/S.K.Sathiya Singh, Advocate SR.No. 87849,
87850 & 87847

+1. C.C. to M/S.H.Arumugam, Advocate SR.No. 88030

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