



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) No.4253 of 2021
(Through Video Conference)

WEB COPY

K.V.Nagasundaram

...Petitioner

Vs.

1) The Joint Commissioner / Executive Officer,
Arulmighu Meenakshi Sundareswarar Temple,
Madurai.

2) J.Palani Velrajan

... Respondents

* Suo-moto impleaded by this Court vide order dated 15.04.2021.

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondent herein to transfer the lease hold right in respect of Shop No.34 Situated at Meenakshi Nayakkar Mandapam at Arulmigu Meenakshi Sundareswarar Temple, Madurai from the name of S.N.K.Veluchamy Chettiyar to the petitioner by considering the application of the petitioner dated 29/05/2020 within the time fixed by this Court.

For Petitioner : Mr.J.Anand Kumar

For R-1 : Mr.V.R.Shanmuganathan,
Special Government Pleader

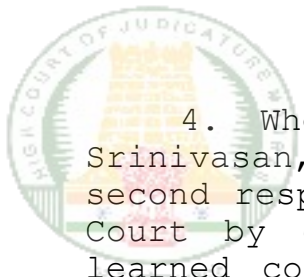
For R-2 : Mr.R.Sundar Srinivasan
(Impleaded)

O R D E R

Mr.J.Palani Velrajan is *suo moto* added as the second respondent in this writ petition.

2. This Writ Petition has been filed for the issue of Writ of Mandamus directing the first respondent to transfer the leasehold rights in respect of shop No.34 situated at Meenakshi Nayakkar Mandapam at Arulmigu Meenakshi Sundareswarar Temple, Madurai to the petitioner by considering his application dated 29.05.2020.

3. It is seen from the records that the shop in question was initially allotted by the first respondent in favour of one S.N.K.Veluchamy Chettiar. On his demise, it came to be allotted in favour of his son K.V.Jananamae Jeyam. This person died on 27.04.2020 and thereafter, the petitioner, who is said to be the brother of the said K.V.Jananamae Jeyam, is making claim for the leasehold right.



4. When the matter was taken up for hearing, Mr.R.Sundar Srinivasan, learned counsel appearing on behalf of the impleaded second respondent submitted that the petitioner has approached this Court by concealing material facts and with unclean hands. The learned counsel submitted that there are three persons, who have made a claim for the leasehold rights and the petitioner has conveniently not added the rival claimants in this writ petition. The learned counsel further submitted that there are civil suits pending and one of the subject property in the suit is the shop under question in this writ petition. The learned counsel, therefore, submitted that the writ petition filed by the petitioner has to be dismissed on the ground of suppression of material facts.

5. Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing on behalf of the 1st respondent submitted that there are totally three claimants, who are claiming for the leasehold rights with respect to the shop in question. The learned Special Government Pleader further submitted that Sri Meenakshi Sundareswarar Kovil Kadaikarargal Sangam filed a writ petition before this Court in W.P. (MD) No.1348 of 2021. In the said writ petition, a counter affidavit was filed by the 1st respondent and a specific stand was taken to the effect that out of the total of 75 shops that are in existence, three of the leaseholders were evicted through proceedings initiated under Section 78 of the Hindu Religious and Charitable Endowments Act and out of the remaining 72 shops, the Temple Administration has decided to open only 36 shops and the remaining 36 shops will not be opened since they are affecting the artistic appearance of the Temple. The learned Special Government Pleader submitted that shop No.34, which is the subject matter in this writ petition, also falls within the aforesaid 36 shops, which was decided not to be opened by the first respondent. The learned Special Government Pleader, therefore submitted that there is no requirement to go into the *inter se* dispute between the parties.

6. This Court has carefully considered the submissions made on either side and the materials available on record.

7. It will be more beneficial to extract the relevant portions in the order passed by this Court in ***Sri Meenakshi Sundareswarar Kovil Kadaikarargal Sangam vs. The District Collector and two others*** in W.P.(MD) No.1348 of 2021, dated 01.03.2021.

"3.In the counter affidavit, in paragraph No.11, it had been stated as follows:-

"11.It is submitted that a sketch and photographs are annexed to this affidavit in the form of a typed set, which this respondent crave leave of this hon'ble Court to treat as part and parcel of this affidavit.

Out of 115 shops, 40 shops were there in the Veera Vasantharaya Mandapam and abetting the said Mandapam. They were fully destroyed in the fire



accident. Therefore, the entire Mandapam has now been demolished and is under the process for construction. Therefore, as on date there are no shops in the said place and thus now the number of shops inside the temple premises has come down to 75 shops.

WEB COPY All 22 flower shops on the northern side of the Nayakar Mandapam could be opened as they may not affect the artistic appearance or heritage value of the temple and as they are necessary for the temple in the sense they sell flowers and garlands place for having access ie., ingress and egress to the said towers are being blocked by these shops. No doubt, they will affect the artistic appearance or heritage value of the temple.

1 shop opposite to Vanni Vinayakar temple had already been evicted under Section 78 proceedings.

Thus out of 75 shops in existence, 3 have been evicted in proceeding under Section 78 of HR and CE Act. Out of remaining 72 shops, the temple administration is ready to open 36 shops for the present as stated above subject to the outcome of the proceedings pending under Section 80 of the HR and CE Act. Remaining 36 shops cannot be opened as they are situated in places inbuilt with sculptures which have rich heritage value and affecting their artistic appearance.

The sketch annexed to typed set would also explain the position as to which shops are to be opened and which could not be opened. The photos annexed will explicate the fact as to how the shops in existence in the said places have affected the heritage value of the temple.

The temple administration make it clear that the places in which the shops that are refused to be open by the temple administration will be removed and heritage therein will be preserved forever and they will not be let out to any one in future."

4.At this, the learned counsel appearing for the petitioner would submit that the 3rd respondent had identified the shops to be opened and the averments would also spell out the identification of the shops, which are to be remain closed and which are to be opened.

5.In view of the categoric statement of the 3rd respondent, this Court does not think that this writ petition can be kept pending anymore and regarding the submission of the 3rd respondent as found in paragraph No.11 of the counter affidavit, this Court finds that no



further order is to be passed in this Writ Petition."

8. This Court has already taken into consideration the specific stand taken by the first respondent, wherein the first respondent had categorically mentioned that only 36 shops are going to be opened and the remaining 36 shops will not be opened, since it affects the heritage value and the artistic appearance of the Temple. This stand was recorded by this Court and the writ petition was disposed of. The shop in question in the present petition, also falls within the 36 shops, which are not going to be opened by the first respondent.

9. In view of the above development, there is no requirement to go into the *inter se* dispute between the parties, who are claiming the leasehold rights in this shop through late K.V.Jananamae Jeyam. No useful purpose will be served in directing the first respondent to consider the representation made by the petitioner in this regard.

10. This writ petition is disposed of accordingly. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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NOTE: *In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.*

To:

The Joint Commissioner / Executive Officer,
Arulmighu Meenakshi Sundareswarar Temple,
Madurai.

+1 CC to M/s.R.SUNDAR SRINIVASAN, Advocate (SR-15960[F] dated 16/04/2021)

Order made in

W.P. (MD) No.4253 of 2021

Dated:

15.04.2021