



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **17.04.2021**

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THE HONOURABLE MR.JUSTICE **N.ANAND VENKATESH**

W.P. (MD)No.8001 of 2021

Arulmigu Subramaniya Swamy Kovil
Valagam Viyabarigal Sangam,
Represented through
It's President S.Neelavannan.

.. Petitioner

Vs.

1.The Commissioner,
Tamil Nadu Hindu Religious and
Charitable Endowment Department,
Numgambakkam,
Chennai.

2.The Joint Commissioner/Executive Officer,
Arulmigu Sri Subramaniya Samy Temple,
Thiruchendur,
Thothukudi District.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent dated 11.03.2021 in proceedings Na.Ka.No.654/2021/E2, quash the same, as the same is arbitrary, ultravires, and consequently direct the respondents to consider the representation dated 07.12.2020 in consonance with Rule 11 of Religious institution Lease of (Immovable Property) Rules 1963 afresh and grant lease to the members of Arulmigu Sri Subramaniya Samy Kovil Valagam Viyabarigal Sangam on daily/monthly rental basis.

For Petitioner : Mr.R.G.Shankar Ganesh

For Respondents : Mr.K.P.Narayanakumar,
Spl. Govt. Pleader for R1

Mr.Muthu Geethiyan,
Addl. Govt. Pleader for R2

ORDER

This Writ Petition has been filed challenging the impugned proceedings of the second respondent dated 11.03.2021 and for a consequential direction to the respondents to consider the representation made by the petitioner association in line with Rule 11 of Religious institution Lease of (Immovable Property) Rules 1963 and grant lease to the members of the petitioner association.



2. Heard Mr.R.G.Shankar Ganesh, learned counsel appearing on behalf of the petitioner, Mr.K.P.Narayanakumar, learned Special Government Pleader appearing on behalf of the first respondent and Mr.Muthu Geethiyan, learned Additional Government Pleader appearing on behalf of the second respondent.

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3. For the purpose of the present case, two proceedings and the earlier orders passed by this Court in W.P.(MD)No.19268 of 2018 has a lot of relevance. It is an admitted case that the members belonging to the petitioner association were permitted to put up shops by the second respondent for a long time. Thereafter, in the year 2017, the structure collapsed and the members belonging to the petitioner association were permitted to have temporary shops and the terms and conditions was prescribed by the first respondent, by proceedings dated 09.04.2018. It is made very clear at clauses 1, 11 and 12 of the proceedings that the temporary arrangement is only for a period of three years and on the expiry of the three years, the lease will automatically come to an end and thereafter, the shops will be allotted only based on public auction.

4. The petitioner association specifically accepted to the terms and conditions imposed by the first respondent, by their letter dated 01.05.2018. Subsequently, the second respondent passed an order through proceedings dated 06.06.2018, by allotting totally 83 shops to the members of the petitioner association. It is also brought to the notice of this Court that the period is coming to an end on 05.06.2021.

5. It is also relevant to note the order passed by the Honourable Division Bench in W.P.(MD)No.19268 of 2018. In the said order, there is a specific mention to the proceedings of the first respondent dated 09.04.2018. The Division Bench proceeded to pass the following order and the relevant portions are extracted hereunder:

"2. Mr.M.Muthugeethaiyan, learned Standing Counsel appearing for the third respondent, would submit that in view of the fire accident occurred on 03.02.2018, all the existing shops in and around the temple were asked to vacate. Thereafter, a decision was taken to permit them to be in the new places for a period of three years as licensees subject to the conditions, imposed by the Commissioner, Hindu Religious and Charitable Endowment Department, Chennai, dated 09.04.2018. The above conditions imposed by the Commissioner, Hindu Religious and Charitable Endowment Department, would indicate that what is given is only a license and after the expiry of the period of three years, a fresh auction will be conducted.

3. In view of the aforesaid submission, the



grievance of the petitioner stands addressed sufficiently. When the existing licensees were asked to vacate the shops, naturally and necessarily, they have to be accommodated.

4. In such view of the matter, the decision of the respondents in granting the period of three years cannot be found fault with, more so, when the same is not challenged. However, on a perusal of the conditions imposed by the Commissioner, Hindu Religious and Charitable Endowment Department, we are of the view that the licensees are bound to hand over the vacant possession, after the expiry of period of license, in the event they fail to become successful bidders in the ensuing auction. Therefore, it is made clear that if any construction is made or put up by them, that will not give them any right, after the expiry of period of license. It is further made clear that after the expiry of the period of license, the respondents are bound to bring the shops for fresh public auction and therefore, there cannot be any question of extension of the license as well as the renewal.

6. In view of the above, this Court does not find any illegality or infirmity in the decision taken by the second respondent through the impugned proceedings dated 11.03.2021. The reference made by the petitioner association to Rule 11 of Religious institution Lease of (Immovable Property) Rules 1963 is to be considered by the respondents and a decision more beneficial to the temple must be taken. It is not for the petitioner to decide what will be more beneficial to the temple and that is not the scope of the Rule. The members of the petitioner association are bound by the conditions imposed by the respondents which was also accepted by them and now they cannot be permitted to wriggle out of the same and sing a different song.

7. In the result, this Court does not find any merits in this Writ Petition. Accordingly, this Writ Petition is dismissed. No costs.

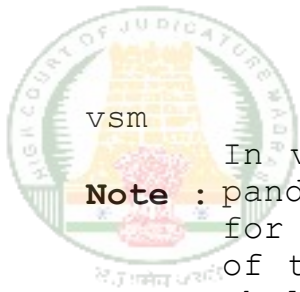
Sd/-

Assistant Registrar (T&P)

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/ /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

- 1.The Commissioner,
Tamil Nadu Hindu Religious and
Charitable Endowment Department,
Numgambakkam,
Chennai.
- 2.The Joint Commissioner/Executive Officer,
Arulmigu Sri Subramaniya Samy Temple,
Thiruchendur,
Thothukudi District.

+1 CC to M/s.M.MUTHUGEETHAYAN, Advocate (SR-16224[F] dated 17/04/2021)

+1 CC to M/s.SPL GP (SR-16473[F] dated 19/04/2021)

W.P. (MD)No.8001 of 2021
17.04.2021

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