



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.799 of 2022

M/s.Mermaid Properties Private Limited,
rep. by its Director P.Ramachandran,
1-C, JVL Towers,
No.51, Nelson Manickam Road,
Chennai-600 029. ...Appellant/Petitioner

Vs

- 1.The Secretary,
HR and CE Department,
Fort St. George,
Secretariat, Chennai - 600 009.
- 2.The Commissioner,
HR and CE Department,
No.119, Uttamar Gandhi Salai,
Nungambakkam,
Chennai - 600 034.
- 3.The Executive Officer,
Arulmigu Nithyakalyanaperumal Temple,
Thiruvudanthai,
Kancheepuram District. ...Respondents/Respondents

Prayer: Appeal under Clause 15 of the Letters Patent against the order dated 01.12.2021 in W.P.No.9328 of 2017.

Prayer in W.P. 9328/2017:

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records of the 2nd respondent vide R.C.No.45584/2016/V-2 dated 30.03.2017 and quash the same and issue directions to the 1st respondent to consider the request of the petitioner to grant lease by conducting an enquiry and pass orders in accordance with law relating to grant of lease for the property of an extent of 22 cents out of 31 cents comprised in Survey No.96/1, Thiruvudhanthai Village, Thirupporur Taluk, Kanchipuram District.



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For the Appellant : Mr.P.Subba Reddy

For the Respondents : Mr.N.R.R.Arun Natarajan
Spl. Govt. Pleader (HR & CE)
for respondent Nos.1 and 2

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

This writ appeal has been filed not much aggrieved by the judgment, but in reference to paragraph 29 of the judgment of the learned Single Judge. Paragraph 29 is quoted for ready reference:

"29. Therefore, this Court feels that, the impugned order, even though is passed by the second respondent Commissioner paving the way for the lease of 400 Sq.ft in favour of the petitioner, the said order need not be given effect to further. Instead, it is open to the petitioner to make an application to the State Government through the H.R.&C.E., Department seeking for lease of any small portion of the land of the third respondent temple for the purpose of ingress and egress and in that case, it can be decided by the Government after elucidating the views and objections of the temple concerned and in this regard, the State Government must be slow in taking any decision to exploit the temple properties towards the progress of any individual, company, firm or industrial houses etc., as the economic progress of the State, though is important, however not at the cost of the properties of the God. Therefore, this Court is of the firm view that, the impugned order need not be given effect to. Instead, the petitioner can be relegated to approach the State Government to redress their grievance as has been indicated above."

2. Learned counsel for the appellant submitted that a direction has been given to the State Government to consider the case of the appellant for providing access to its land by leasing 400 square feet. The appellant has no objection, but while considering the application for the aforesaid, the learned Single Judge should have taken note of the earlier direction of this Court, pursuant to which, the appellant has deposited the directed amount by the Court. The amount so deposited by the appellant pursuant to the order of the Court may also be taken



into consideration while considering the application though without offending Section 34 of the Tami Nadu Hindu Religious and Charitable Endowments Act, 1959.

3. In view of the limited prayer made, the writ appeal is disposed of without causing interference in the judgment of the learned Single Judge. However, while carrying out the direction, the State Government may also look into the earlier direction of this Court, pursuant to which, a deposit has been made by the appellant. There will be no order as to costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To:

1.The Secretary,
HR and CE Department,
Fort St. George,
Secretariat, Chennai - 600 009.

2.The Commissioner,
HR and CE Department,
No.119, Uttamar Gandhi Salai,
Nungambakkam,
Chennai - 600 034.

3.The Executive Officer,
Arulmigu Nithyakalyanaperumal Temple,
Thiruvudanthai,
Kancheepuram District.

+1cc to Mr.P.Subba Reddy, Advocate, S.R.No.22652.

+1cc to the Government Pleader, S.R.No.24085

[09/06/2022]

W.A.No.799 of 2022

RV(CO)
SP(13/04/2022)