



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.05.2022

CORAM :

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.13480 of 2022
and W.M.P.No.12663 of 2022

T.D.Rajendran

.. Petitioner

Vs.

1. The Commissioner
Hindu Religious & Charitable Endowments Department
Uthamar Gandhi Salai
Chennai.

2. The Executive Officer
Arulmigu Odasalamman Swamy Thirukovil
Thimmapuram
Kaveri Pattinam
Krishnagiri District.

.. Respondents

Prayer in W.P.No.13480 of 2022: Petition filed under Article 226 of the Constitution of India praying for a writ of Mandamus directing the first respondent to dispose the unnumbered review petition by numbering the same filed by the petitioner after hearing the petitioner.

For the Petitioner : Mr.R.Kannan

For the Respondents : Mr.K.Karthikeyan
R1 & R2 Govt. Advocate (HR&CE)

ORDER

The relief sought for in the present writ petition is to direct the first respondent to dispose of the unnumbered review petition filed by the writ petitioner before the first respondent Commissioner.

2. The petitioner states that he is the Hereditary Trustee cum Poojari of Arulmigu Odasalamman Swamy Thirukovil, situated at Thimmapuram Village, Kaveripattinam Taluk, Krishnagiri

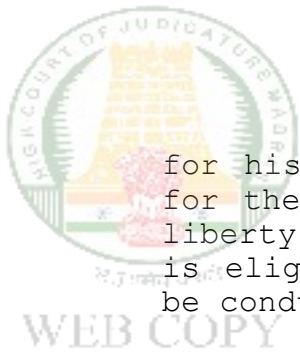


District. The petitioner is in possession of the temple properties measuring to an extent of 7 Acres 18 Cents. Learned counsel for the petitioner states that the petitioner is the tenant, cultivating the lands for several years and therefore, the action taken by the respondent to conduct public auction is not in accordance with the rights conferred to the cultivating tenant. The auction notice was issued on 21.02.2022, calling for auction of the subject property belonging to the temple. The petitioner states that the Trustees sent representation to the respondents to stop the auction and further preferred the revision petition before the Commissioner which is yet to be numbered.

3. Learned Government Advocate appearing on behalf of the HR&CE Department objected the said contentions raised by the petitioner and states that the petitioner is not the cultivating tenant. His name has not been recorded in the temple records as cultivating tenant. The petitioner is not paying the lease amount for several years. He has not even contributed any amount for conducting the Poojas and Festivals in the temple. When the action was taken initially to conduct public auction, the petitioner raised an objection stating that he must be granted some more time to harvest the crops. Accordingly, three months time was granted. Even after harvest, the petitioner has raised further objection and now filed the present writ petition. Therefore, the authorities have granted three months time as per the request of the writ petitioner and therefore, the petitioner is not entitled for any further time and accordingly, the writ petition is liable to be rejected.

4. Admittedly, the subject property belongs to the temple. Thus, the competent authority is empowered to lease the property in accordance with the provisions of the Hindu Religious and Charitable Endowments Act, 1959. The petitioner would not be able to establish that his name is recorded as cultivating tenant under the provisions of The Tamil Nadu Agricultural Land Records of Tenancy Rights Act, 1965. In the absence of any such record, the petitioner cannot be considered as the cultivating tenant. Therefore, he is not entitled for the relief.

5. Even as per Section 34 of the Hindu Religious and Charitable Endowments Act, 1959, the lease can be granted for the maximum period of five years. Beyond five years, prior permission of the Commissioner of HR&CE Department is mandatory. No such orders has been passed by the Commissioner and the petitioner has not produced any document to establish that he is the lessee. Therefore, the petitioner is in unauthorised possession and accordingly, the authorities are empowered to evict the petitioner and conduct public auction for the benefit of the temple and the petitioner has not established any right



for his continuance in the temple property. He is not entitled for the relief and therefore, the respondent authorities are at liberty to proceed with the auction and if at all the petitioner is eligible, he is at liberty to participate in the auction to be conducted by the authorities.

6. With these observations, the writ petition stands dismissed. Consequently, connected miscellaneous petition is also closed. There will be no order as to costs.

Sd/-
VACATION OFFICER

//True Copy//

Sub Assistant Registrar

kk/drm

To:

1. The Commissioner
Hindu Religious & Charitable Endowments Department
Uthamar Gandhi Salai, Chennai.
2. The Executive Officer
Arulmigu Odasalamman Swamy Thirukovil
Thimmapuram, Kaveri Pattinam
Krishnagiri District.

+1cc to the Special Government Pleader, S.R.No.31877

W.P.No.13480 of 2022
and W.M.P.No.12663 of 2022

SKM(CO)
CT 02/06/2022