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W.P.No.26406 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.26406 of 2022
and W.M.P.Nos.25484 & 25485 of 2022

1. S.Kanniyammal
2. G.Mohan
3. G.Venkatesan
4. S.Raghupathy
5. E.Anbalagan
6. M.Sankar
7. Sivakumar

.. Petitioners

Vs.

1. The State of Tamil Nadu rep. by
The Collector, Thaiyar Kullam,
Kanchipuram - 631 501.
2. The Assistant Commissioner / Executive Officer,
Hindu Religious and Charitable Endowment,
Mangadu, Chennai - 122.
3. Arulmigu Kamatchi Amman and Arulmigu
Vaigunda Perumal Thirukoil rep by its
Executive Officer, Mangadu,
Chennai - 122.
4. The Commissioner of HR & CE,
Hindu Religious and Charitable Endowment,
119, Uthamar Gandhi Road,
Nungamballam, Chennai - 600 034.

.. Respondents



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Prayer : Writ Petition has been filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus calling for the records on the file of the 2nd respondent dated 26.08.2022 and quash the same and consequently direct the first respondent to issue patta in favour of the petitioners in respect of their property above mentioned door numbers situated in S.No.138/4, Door No.24, Melanda Pudu Street, Mangadu, Kunrathur Taluk, Kancheepuram district.

For Petitioners : Ms.Selvi George

For Respondents 1, 2 & 4: Mr.N.R.R.Arun Natarajan
Special Government Pleader

For Respondent 3 : Mr.K.Karthikeyan

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ORDER

Challenging the order passed by the second respondent dated 26.08.2022, the present writ petition has been filed.

2. The main contention of the writ petitioners is that the subject land is a grama natham and the petitioners are residing there for several decades and therefore the impugned order passed by the authorities has no legs to stand. The main challenge to the impugned order is on the ground that the



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temple has no title to the property and the writ petitioners are the owners and they are not tenants. Since the property is a grama natham, it cannot be a temple property and therefore the impugned order has been assailed in the writ petition.

3. Perusal of the earlier orders of this Court particularly order dated 07.11.2022, this Court has directed the first respondent to conduct a survey of the land and file a report. Pursuant to the same, a report has been filed, wherein, it is stated that S.No.138/3 and 138/4 stands in the name of Arulmighu Vellieswarar Swamy Temple in the revenue 'A' Register.

4. Be that as it may, it is the contention of the learned counsel appearing for the petitioners that the temple is not the owner of the property and the order passed under Section 78 of the HR & CE Act cannot be sustained in the eye of law as there is no landlord and tenant relationship existing between the parties. Merely on the basis of some letter obtained under coercion from the petitioners, the respondents cannot claim that they are the landlord and pass orders. Hence, it is her contention that even the report of the first respondent indicate that only Arulmighu Vellieswarar Swamy Temple is shown as the owner of the property in the revenue records,



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at the most the petitioners can be tenants only under the Arulmighu Vellieswarar Swamy Temple and not under the respondent temple.

Therefore, the impugned order is sought to be quashed in this writ petition.

5. I have heard the learned counsel on either side and also gone through the entire materials.

6. Careful perusal of the order passed by the Joint Commissioner, HR & CE Department dated 15.12.2020 makes it clear that the petitioners have in fact filed applications seeking details of balance rent and thereby admitted that the temple is the landlord and as tenants they agreed to pay the rent fixed under fair rent. Further the observation in the order also reveals the fact that when the application under Section 78 of the HR & CE Act has been filed and the petitioner has paid the original rent to the temple though fair rent has been fixed.

7. That apart, the letters in the typed set of papers dated 02.03.2021 filed by the petitioners, wherein they have admitted to pay the rent and sought for approval of tenancy. Thereafter, some payment has also been made towards rent. Once the tenant has accepted the right of the landlord



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and paid the rent, the petitioners are totally estopped from denying the title of the landlord. Section 116 of the Evidence Act makes it very clear that once the tenant was inducted into possession and paid the rent to the landlord they are estopped from denying the title of the landlord on any ground. Therefore, when the petitioners have accepted the relationship as landlord and tenant, they are estopped from denying the title of the landlord in the writ petition.

8. It is also to be noted that the landlord need not be always the owner. Therefore, as the petitioners have paid the rent they are totally estopped from denying the title of the temple. Such view of the matter, this Court is of the view that the order impugned does not suffer from any illegality or infirmity and the writ petition is liable to be dismissed.

9. The contention of the learned counsel appearing for the petitioners that the letters were obtained by coercion also cannot be countenanced in the writ petition. It is also a matter of proof and pleadings. Remedy for the petitioners lies somewhere i.e., before a competent Civil Court.

10. Such view of the matter, there is no merit in this writ petition and



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accordingly the writ petition is dismissed. If the petitioners are so advised, they can file an appropriate Civil Suit to establish their right before the competent Civil Court. The learned counsel for the petitioners requested this Court to fix some time for filing the suit. This Court is unable to comprehend such request of the learned counsel appearing for the petitioners and it is for the petitioners to establish their rights any time and this Court cannot fix such time. Consequently, the connected miscellaneous petitions are closed. No costs.

21.12.2022

Index : Yes / No
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