



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **09.02.2022**

CORAM:

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P. (MD) No.2573 of 2022

and

W.M.P. (MD) No.2266 of 2022

WEB COPY

R.Chokkar

... Petitioner

/vs./

1.The Fit Person,
Arulmigu Lakshmi Narayana Perumal Temple,
Erasakkanayakkanoor,
Uthamapalayam Taluk,
Theni District,
Office at Arulmigu Gowmariamman Temple,
Veerapandi, Theni Taluk,
Theni District.

2.The Executive Officer,
Arulmigu Gowmariamman Temple,
Veerapandi,
Theni Taluk,
Theni District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records of the impugned orders of the 1st respondent dated 28.09.2021 and 01.11.2021 issued to the petitioner and quash the same as illegal and consequently direct the 1st respondent to receive the demand draft for a sum of Rupees 27,000/- as arrears of rent up to the Fasli year 1428 and continue to receive the rent from the petitioner for the years to come as a lawful tenant for the landed properties for an extent of 2 Acres 71 Cents comprised in Survey No.60/1A situated at Kanniservaipatti Village, Uthamapalayam Taluk, Theni District.

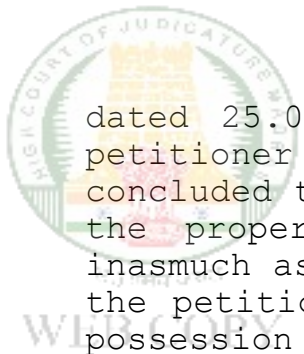
For Petitioner : Mr.R.R.Kannan

For Respondents : Mr.S.Manohar

ORDER

This writ petition was heard for some time at the time of admission in the presence of the learned counsel for the respondents.

2.Though the learned counsel for the respondents would submit that the petitioner has relinquished his right in favour of his younger brother's son, namely, S.Balamurugan under a release deed



dated 25.05.2019, it is noticed in the impugned notice that the petitioner was not only called upon to vacate the premises but also concluded that the petitioner is no longer entitled to possession of the property. There is a contradiction in the impugned notice inasmuch as the impugned notice itself has been issued, calling upon the petitioner to vacate the premises. If the petitioner is not in possession of the property, there cannot be any notice, asking the petitioner to vacate the premises and the notice can be issued only for cancelling the tenancy.

3.Be that as it may, the fact of the matter is that in the impugned notice, the 1st respondent appears to have applied his mind already and pre-decided the issue. Considering the same, I direct the petitioner to appear before the respondents to pass a speaking order by them in accordance with law under the provisions of the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959. It is made clear that if required, the respondents may issue a corrigendum to the impugned notice dated 28.09.2021 and 01.11.2021 and thereafter call upon the petitioner to show cause as to why the tenancy should not be cancelled, in the light of the so called release deed dated 25.05.2019, which is said to have been executed by the petitioner in favour of his brother's son. Though the petitioner has taken draft for a sum of Rs.27,000/- towards lease amount for the Fasli years commencing from 1426 to 1431, the respondents may collect the same subject to the final outcome of the proceeding. The entire exercise shall be carried out by the respondents within a period of 4 weeks from the date of receipt of a copy of this order. It is needless to state that the petitioner shall also be heard, before such orders are passed.

4.The writ petition is disposed of, in terms of the above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CSI)

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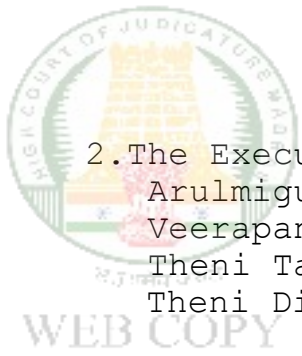
Sub Assistant Registrar(CS)

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TO

1.The Fit Person,
Arulmigu Lakshmi Narayana Perumal Temple,
Erasakkanayakkanoor,
Uthamapalayam Taluk,
Theni District,
Office at Arulmigu Gowmariamman Temple,
Veerapandi, Theni Taluk,

<https://hcservices.cemilts.gov.in/hcservices>



2.The Executive Officer,
Arulmigu Gowmariamman Temple,
Veerapandi,
Theni Taluk,
Theni District.

+1 CC to M/s.R.R.KANNAN, Advocate (SR-4934[F] dated 09/02/2022)

+1 CC to M/s.S.MANOHAR, Advocate (SR-5406[F] dated 10/02/2022)

ORDER MADE IN
W.P. (MD) No.2573 of 2022
09.02.2022

PKP/25.02.2022/3P/5C