



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.04.2022**

CORAM:

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

W.P. (MD) No.4966 of 2020

Damodharan

... Petitioner

/vs./

1.The Commissioner,
Hindu Religious & Charitable Endowment Department,
Chennai.

2.The Joint Commissioner,
Hindu Religious & Charitable Endowment Department,
Madurai,
Madurai District.

3.The Assistant Commissioner,
Hindu Religious & Charitable Endowment Department,
Madurai,
Madurai District.

4.The Executive Officer,
Madurai Meenakshi Temple,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to lease/rent out the vacant land, owned by Madurai Meekshmiamman Temple, located near Maruthupandiar Bus stop Corner, enroute to Anuppanadi, Madurai for setting up a tea shop or grocery shop or pooja articles selling shop in order to run petitioner's family on the basis of the representation dated 06.02.2019.

For Petitioner : No appearance

For R1 to R3 : Mr.P.T.Thiraviam
Government Advocate

For R4 : Mr.VR.Shanmuganathan

ORDER

The petitioner has filed this writ petition for a Mandamus to direct the respondents to lease/rent out the vacant land owned by Madurai Meekshmiamman Temple, Madurai for setting up a shop, on the basis of the petitioner's representation dated 06.02.2019.

2.No representation on behalf of the petitioner.



3. There is no merits in the present writ petition, inasmuch as the properties of the respondent temple can be leased only in accordance with the provisions of the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959 and the Rules made thereunder. As a matter of fact, under Section 116 (2) of the HR & CE Act, 1959, Religious Institutions (Lease of Immovable Property) Rules, 1963 has been framed, which is in force from 6th November, 1963. As per Rule 2 of the Religious Institutions (Lease of Immovable Property) Rules, 1963, lease of immovable property and rights belonging to a religious institution shall be made by public auction. The said Rule reads as under:-

"2. Lease by public auction.- Lease of immovable property and rights belonging to a religious institution shall be made by public auction. The auction shall, ordinarily, be conducted in the place in which the property is situate or the rights exist:

Provided that the Joint Commissioner or the Deputy Commissioner, as the case may be, may, either suo motu or on an application made to him by the executive authority, permit the holding of such an auction at a place within the district, other than the one in which the property is situate if he is satisfied that it will not be detrimental to securing a proper bid.

Explanation.- For purposes of these Rules, the term "executive authority" shall mean -

- (a) the Executive Officer, where there is one; or
- (b) where there is no Executive Officer-
 - (i) the trustee, if there is a single trustee; or
 - (ii) the Chairman of the Board of the Trustees, if the number of trustees exceeds one.

No transfer of lease of any property or right belonging to a religious institution shall be approved by the executive authority without the prior sanction of the Commissioner.

Rule 2 of the Religious Institutions (Lease of Immovable Property) Rules, 1963, makes it clear that the religious institution shall go for public auction in the case of lease of immovable properties. When the rules are very clear, the Court find any infirmity in the impugned order. As stated above, the lease period is already over and the petitioner is not precluded from participating in the public auction. The properties are in the nature of public properties, as the same belonged to the religious institution. Hence, there should be every endeavour to get the maximum benefit to the institution. Only to get maximum benefit, rule 2 of the said rules contemplates public auction. The first respondent has simply directed the second respondent to hold public auction of the



properties after cancelling the lease. In fact, the lease period is already over and therefore, the third respondent could have no grievance. (S.B.Raju Vs. Commissioner, HR & CE (Admn) Department, 2013 (1) MLJ 45."

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6.Under these circumstances, I find no merit in this writ petition. Further, the representations of the petitioner dated 03.10.2018 has already been disposed of by the 2nd respondent on 17.10.2018 and the subsequent representations have also been considered and disposed of by the 2nd respondent on 19.06.2019. The writ petition is therefore liable to be dismissed and is accordingly dismissed. No costs.

Sd/-

Assistant Registrar (Crl Side)

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Sub Assistant Registrar(CS)

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To

- 1.The Commissioner,
Hindu Religious & Charitable Endowment Department,
Chennai.
- 2.The Joint Commissioner,
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Madurai,
Madurai District.
- 3.The Assistant Commissioner,
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RD(26.05.2022) 3P 4C