



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 06.04.2022
CORAM

THE HONOURABLE MR. JUSTICE C.SARAVANAN

WEB COPY

Writ Petition (MD) No.9183 of 2020
and
W.M.P.(MD) Nos.8390 of 2020 & 9141 of 2021

A.Chithrai Selvam .. Petitioner

Versus

1.The Commissioner,
Hindu Religious & Charitable Endowment Department,
Uthamar Gandhi Salai,
Chennai - 600 034.

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

3.The Executive Officer,
Arulmigu Kasinatha Thirukoil,
Ambasamudram,
Tirunelveli District.

4.Ganesan, S/o.Athimoola Moopnar

5.The Commissioner,
Ambasamudram Municipality,
Ambasamudram,
Tirunelveli District.

6.The Secretary,
Bar Association, Court Complex,
Ambasamudram,
Tirunelveli District.

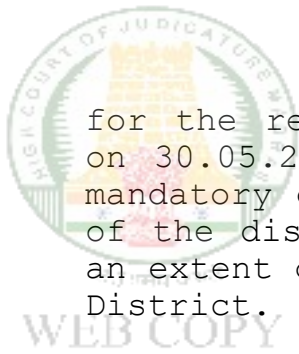
7.The Secretary,
Advocate Association, Court Complex,
Ambasamudram,
Tirunelveli District.

8.The Inspector of Police,
Ambasamudram Police Station,
Ambasamudram,
Tirunelveli District.

.. Respondents

Petition filed under Article 226 of the Constitution of India
praying for issuance of a Writ of Certiorarified Mandamus, to call

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



for the records in O.Mu.No.14240/2020/V3, dated 29.05.2020, signed on 30.05.2020, by the first respondent, quash the same and give a mandatory direction to the respondents 1 to 4 to restore possession of the disputed wet land comprised in S.Nos.233/1 and 2, measuring an extent of 94 cents of Ambasamudram Village and Taluk, Tirunelveli District.

For Petitioner	:	Mr.T.S.R.Venkat Ramana
For R1, R2 & R8	:	Mr.P.Thiraviam Government Advocate
For R3	:	Mr.H.Arumugam
For R4	:	Mr.J.Barathan
For R5	:	Mr.M.Rajarajan
For R6 & R7	:	Mr.P.P.Alwin Balan

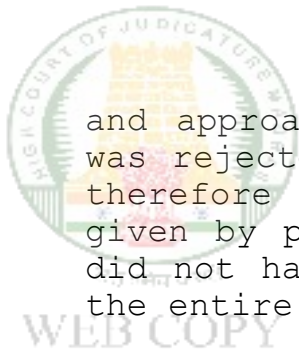
ORDER

The petitioner has challenged the impugned order of the first respondent, dated 30.05.2020, and has prayed for a mandatory direction to the respondents 1 to 4 to restore possession of the wet land comprised in S.No.233/1 and 2, measuring an extent of 94 cents of Ambasamudram Village and Taluk, Tirunelveli District.

2.The case of the petitioner appears to be that the petitioner's father late.Arunchalam Moopanar was a tenant/cultivator to the third respondent Temple and that there was a proposal in the year 2009-2010 for acquiring the aforesaid land for construction of Court Complex in Ambasamudram. It is submitted that under these circumstances, the petitioner's father surrendered the land back in favour of the third respondent Temple. It is further submitted that prior to the above said event, the Temple had also filed a suit against the petitioner's father for certain reliefs, whereby the petitioner's father was restrained from converting the wet land meant for agriculture for any other purpose.

3.The learned counsel for the petitioner submits that the petitioner's father surrendered the land under the *bona fide* impression that the land is being acquired for construction of a Court Complex and thereafter, the petitioner was surprised to note that the third respondent has leased out the property for a period of three years in favour of the fourth respondent on 29.05.2020. It is further submitted that the lease in favour of the fourth respondent was granted when the entire Country was under lockdown due to Covid-19 outbreak. It is therefore submitted that the entire exercise carried out by the third respondent in collusion with the fourth respondent, which has been approved by the first respondent, is contrary to the provisions of the Religious Institutions (Lease of Immovable Property) Rules, 1963.

4.The learned counsel for the petitioner submits that the petitioner's father had also attempted to get the property re-leased



and approached the third respondent Temple. However, the request was rejected by the Temple by its letter, dated 18.09.2015. It is therefore submitted that the lease has been made surreptitiously given by publishing an advertisement in an unknown Newspaper which did not have wide circulation in the area concerned and therefore, the entire proceedings to go.

5.Opposing the prayer in this Writ Petition, the learned counsel for the third respondent submits that the petitioner has suppressed the material facts, inasmuch the petitioner's father executed a surrender deed, dated 29.03.2010, which was also recorded by the Special Collector, by an order dated 30.03.210, in the presence of the petitioner's father and thereafter, orders also came to be passed. It is submitted that despite the surrender, the petitioner attempted to encroach on the property and therefore, the Temple constrained to file a complaint before the eighth respondent on 14.07.2015 and 19.11.2016. Meanwhile, the proposal for constructing the Court Complex was dropped and the proposed construction of Court Complex was built in the existing Complex itself. The learned counsel for the Temple further submits that the property has been leased to the fourth respondent after the Fair Rent Fixation Committee had fixed the fair rent and therefore, the petitioner cannot question the same. That apart, it is submitted that after the property was leased to the fourth respondent, the petitioner suppressed the material facts and moved this Court and obtained an order of *ex parte* injunction to restrain the fourth respondent from putting up construction on 13.08.2020.

6.The learned counsel for the third respondent further submits that after the property was leased to the fourth respondent, the petitioner along with few other persons claiming to be the members of the respondents 6 and 7 Association, were interfering with the construction being put up by the fourth respondent and hence, a representation was sent to the eighth respondent to take timely action.

7.Supporting the views of the third respondent Temple, the fourth respondent, current lessee, submits that the fourth respondent took the property on lease in accordance with law after there was a proper publication for auctioning the land by third respondent for lease. It is submitted that an interim order was obtained suppressing the material facts and therefore, the Writ Petition deserves to be dismissed with exemplary costs. That apart, the learned counsel for the fourth respondent submits that the petitioner has no *locus standi* to ask for the relief sought for in this Writ Petition as neither the petitioner nor his father was a tenant. It is submitted that the original lease was in the name of one Thirumalai Moopanar and that the petitioner's father was merely a sub-lessee and therefore, on this count also, the Writ Petition is liable to be dismissed.



8.I have considered the arguments advanced by the learned counsel appearing for the parties and perused the impugned communication/order of the first respondent approving the lease in favour of the fourth respondent by the third respondent.

9.The petitioner has no *locus standi* to interfere with the affairs of the third respondent Temple in leasing the aforesaid land in favour of the fourth respondent. If at all, it was open to the petitioner's father to participate in the proposed auction when the property was auctioned/leased by the third respondent. That apart, the facts also indicate that the petitioner's father had executed a surrender deed dated 29.03.2010, whereby the petitioner's father categorically accepted that neither the petitioner's father nor any of the members of the family will claim any right against the third respondent Temple. The fourth respondent is a *bona fide* lessee, who has invested in the land for putting up a parking space adjacent to the Court Complex in the land, which was earlier leased to the tenant named, Thirumalai Moopanar. Neither the petitioner nor his father was the tenant of the Temple property. The Writ Petition is thus devoid of merits and therefore, is liable to be dismissed. However, when the current period of three years lease ends, the third respondent shall give a proper publication in a Newspaper having wide circulation in Ambasamudram Region, to auction the right to take the property on lease by inviting the general public to make their offer. If the petitioner is the highest bidder or where there are similar offer, preference may be given to the petitioner.

10.This Writ Petition stands dismissed with the above observation. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

smn2

To

1.The Commissioner,
Hindu Religious & Charitable Endowment Department,
Uthamar Gandhi Salai,
Chennai - 600 034.

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



3.The Commissioner,
Ambasamudram Municipality,
Ambasamudram,
Tirunelveli District.

4.The Inspector of Police,
Ambasamudram Police Station,
Ambasamudram,
Tirunelveli District.

+1 CC to M/s.M. RAJARAJAN, Advocate (SR-17099[F] dated 07/04/2022)

+1 CC to M/s.T.S.R. VENKAT RAMANA, Advocate (SR-17132[F] dated
07/04/2022)

+1 CC to M/s.SPL.GP (SR-17147[F] dated 07/04/2022)

+1 CC to M/s.H. ARUMUGAM, Advocate (SR-17342[F] dated 07/04/2022)

+1 CC to M/s.T.R. JEYAPALAM, Advocate (SR-17438[F] dated 08/04/2022
)

WP (MD) No.9183 of 2020
06.04.2022

SJ(CO)
KB(20.04.2022) 5P 10C