



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED : 03.03.2022  
CORAM

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

WEB COPY

W.P(MD).Nos.14068, 15604,  
17724 of 2021 and 3569 of 2021  
and  
W.M.P(MD).Nos.11037, 11038, 12251,  
12252, 14627 and 14628 of 2021

W.P.(MD).No.14068 of 2021

M.Jayaraman

... Petitioner

**Vs.**

1.The Commissioner,  
Hindu Religious and Charitable Endowments Department,  
No.119, Uthamar Gandhi Salai,  
Thousand Lights West, Nunkambakkam,  
Chennai-34.

2.The Joint Commissioner,  
Hindu Religious and Charitable Endowments Department,  
Sivagangai,  
Sivagangai District.

3.M.Venkatesan Chettaiyar

...Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus, calling for records relating to the tender notification of the third respondent dated 31.07.2021 for the purpose of calling for tender for the fasili (01.07.2021 to 30.06.2022) relating to the granting of lease for the collection of Mahamai at the third respondent temple on 17.08.2021 at 11.00am and quash the same and consequently direct the respondents either to issue work order thereby extending the lease period for another 8 months to carry out the work of collection of Mahamai at the third respondent temple or to reimburse the deposit amount of Rs.1,05,00,000/- deposited by the petitioner on 28.02.2020 towards the lease with the third respondent within a time frame as stipulated by this Court.

|                |                            |
|----------------|----------------------------|
| For Petitioner | : Mr.B.Prahalad Ravi       |
| For R1 & R2    | : Mr.P.Subbaraj            |
|                | Special Government Pleader |
| For R3         | : Mr.T.S.Mohamed Mohidheen |



**W.P.(MD).No.15604 of 2021**

M.Jayaraman

... Petitioner

**Vs.**

1.The Commissioner,  
Hindu Religious and Charitable Endowments Department,  
No.119, Uthamar Gandhi Salai,  
Thousand Lights West, Nunkambakkam,  
Chennai-34.

2.The Joint Commissioner,  
Hindu Religious and Charitable Endowments Department,  
Sivagangai,  
Sivagangai District.

3.M.Venkatesan Chettaiyar

...Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorari, calling for records relating to the impugned order passed by the first respondent in x.K.vz;.54810/2021/[p2/ dated 13.08.2021 and quash the same.

|                |                                               |
|----------------|-----------------------------------------------|
| For Petitioner | : Mr.B.Prahalad Ravi                          |
| For R1 & R2    | : Mr.P.Subbaraj<br>Special Government Pleader |
| For R3         | : Mr.T.S.Mohamed Mohidheen                    |

**W.P.(MD).No.17724 of 2021**

M.Jayaraman

... Petitioner

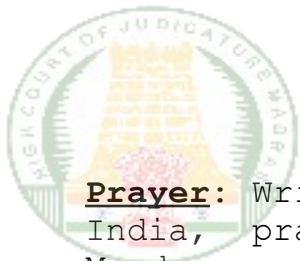
**Vs.**

1.The Commissioner,  
Hindu Religious and Charitable Endowments Department,  
No.119, Uthamar Gandhi Salai,  
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Chennai-34.

2.The Joint Commissioner,  
Hindu Religious and Charitable Endowments Department,  
Sivagangai,  
Sivagangai District.

3.M.Venkatesan Chettaiyar

...Respondents



**Prayer:** Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus, calling for records relating to the impugned order passed by the first respondent in his proceedings in Mu.Mu.No.53199/2021/H4 dated 28.08.2021 and quash the same and consequently direct the respondents to extend the lease period of the petitioner for one year towards the collection of Mahamai in the third respondent temple in the light of declaration of the petitioner as the successful bidder in the tender cum auction conducted by the third respondent through the tender notification dated 14.02.2020 and consequent receipt of deposit to the tune of Rs.1,05,00,000/- towards one year lease period from 01.01.2020 to 31.12.2020 beside directing the respondents to issue proper confirmation orders as per the law of the land or direct the respondents to reimburse the said deposit amount of Rs.1,05,00,000/- with interest within a time frame as fixed by this Court.

|                |                                               |
|----------------|-----------------------------------------------|
| For Petitioner | : Mr.B.Prahalad Ravi                          |
| For R1 & R2    | : Mr.P.Subbaraj<br>Special Government Pleader |
| For R3         | : Mr.T.S.Mohamed Mohidheen                    |

**W.P. (MD) .No.3569 of 2022**

M.Jayaraman

... Petitioner

**Vs.**

- 1.The Commissioner,  
Hindu Religious and Charitable Endowments Department,  
No.119, Uthamar Gandhi Salai,  
Thousand Lights West, Nunkambakkam,  
Chennai-34.
- 2.The Joint Commissioner,  
Hindu Religious and Charitable Endowments Department,  
Sivagangai,  
Sivagangai District.
- 3.M.Venkatesan Chettaiyar

...Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Mandamus, directing the third respondent to consider representation dated 19.01.2022 made for granting permission for collection of Mahamai at Thayamangalam Temple in the light of the lease granted by the third respondent to collect the Mahamai for a period of four months from 01.03.2022 to 30.06.2022 within a time frame fixed by this Court.



For Petitioner : Mr.B.Prahalad Ravi  
For R1 & R2 : Mr.P.Subbaraj  
Special Government Pleader  
For R3 : Mr.T.S.Mohamed Mohidheen

**COMMON ORDER**

W.P.(MD).No.14068 of 2021 has been filed for a writ of Certiorarified Mandamus, calling for records relating to the tender notification of the third respondent dated 31.07.2021 for the purpose of calling for tender for the fasili (01.07.2021 to 30.06.2022) relating to the granting of lease for the collection of Mahamai at the third respondent temple on 17.08.2021 at 11.00am and quash the same and consequently direct the respondents either to issue work order thereby extending the lease period for another 8 months to carry out the work of collection of Mahamai at the third respondent temple or to reimburse the deposit amount of Rs.1,05,00,000/- deposited by the petitioner on 28.02.2020 towards the lease with the third respondent.

2. W.P.(MD).No.15604 of 2021 has been filed for a writ of Certiorari, calling for records relating to the impugned order passed by the first respondent in x.K.vz;.54810/2021/[p2/ dated 13.08.2021.

3. W.P.(MD).No.17724 of 2021 has been filed for a Writ of Certiorarified Mandamus, calling for records relating to the impugned order passed by the first respondent in his proceedings in Mu.Mu.No.53199/2021/H4 dated 28.08.2021 and quash the same and consequently direct the respondents to extend the lease period of the petitioner for one year towards the collection of Mahamai in the third respondent temple in the light of declaration of the petitioner as the successful bidder in the tender cum auction conducted by the third respondent through the tender notification, dated 14.02.2020 and consequent receipt of deposit to the tune of Rs.1,05,00,000/- towards one year lease period from 01.01.2020 to 31.12.2020 beside directing the respondents to issue proper confirmation orders as per the law of the land or direct the respondents to reimburse the said deposit amount of Rs.1,05,00,000/- with interest.

4. W.P.(MD).No.3569 of 2022 has been filed for a Writ of Mandamus, directing the third respondent to consider representation, dated 19.01.2022 made for granting permission for collection of Mahamai at Thayamangalam Temple in the light of the lease granted by the third respondent to collect the Mahamai for a period of four months from 01.03.2022 to 30.06.2022.

5. After hearing the learned counsel for the petitioner and the learned Special Government Pleader for the respondents 1 and 2 and the learned counsel for the third respondent, these writ petitions are disposed of by this common order.

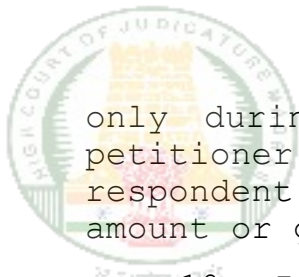


6. The case of the petitioner is that the petitioner was the successful bidder in the tender called for by the respondent temple for collecting Mahamai from the temporary shops put up in Thayamangalam Temple in Sivagangai District.

7. The learned counsel for the petitioner submits that the petitioner remitted a sum of Rs.1,00,05,000/- as the highest bidder. The petitioner could not successfully collect the Mahamai due to outbreak of Covid-19 pandemic during March 2020. The learned counsel for the petitioner submits that the petitioner sent a representation to the third respondent to refund the amounts paid by the petitioner. However, the third respondent refused to refund the amount. The learned counsel for the petitioner further submits that the respondents proceeded to issue a fresh tender notice, dated 13.08.2021 and therefore, the petitioner was constrained to file W.P.(MD).No.14068 of 2021 and interim order was passed by this Court on 02.09.2021, by staying the tender. Meanwhile, the first respondent had rejected the request of the petitioner for extension of tender period or refund of the amount in the light of order, dated 18.12.2020, extending the period between 01.01.2021 and 14.06.2021, in view of the fact that the petitioner could not effectively collect Mahamai during the first lockdown period between 20.03.2020 and 31.08.2020. Under these circumstances, the petitioner has also filed W.P.(MD).No.3569 of 2022 for extension of lease and also filed W.P.(MD).No.15604 of 2021 to direct the first respondent to allow the third respondent to conduct a fresh auction for collecting Mahamai during the pendency of the three abovementioned writ petitions.

8. The learned counsel for the third respondent submits that the order, dated 18.12.2020, was received by the petitioner on 22.03.2021 and there was some communication gap and therefore, the same could not be communicated to the petitioner. However, it was received by the petitioner on 22.03.2021. The learned counsel for the official respondents and the temple would further submit that the temple is also depending on the income from the temporary leasing of the space for vendors to put up stall and temporary shops since the temple has no other source of income, other than the income from temporary leasing of the space and Hundial collection. The learned counsel for the official respondents submits that the petitioner was given extension for the period between 01.01.2021 and 14.06.2021 for a period of 165 days and therefore, the petitioner has been adequately compensated.

9. By way of rejoinder, the learned counsel for the respondents submits that the petitioner was unaware of the extension of the period, vide letter, dated 18.12.2020. It is submitted that the petitioner was given an aforesaid letter on 22.03.2021. It is further submitted that though the lease is for fasli, the income from leasing of space for putting up temporary shops and stalls is



only during the mid of March to 15<sup>th</sup> April and therefore, the petitioner deserves to be appropriately compensated by the third respondent and also the official respondent by either refunding the amount or granting further extension.

10. I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the respondents and perused the records filed in support of the respective writ petitions and the counter filed by the temple in W.P.(MD).No.15604 of 2021, which was filed by the petitioner for a writ of Certiorari calling for the records of the first respondent in Oo.Mu.No.54810/2021/G.2, dated 13.08.2021. The tender conditions are silent about event on account of the impossibility, which renders performance of a contract impossible under Section 56 of the Contract Act, which reads as under:-

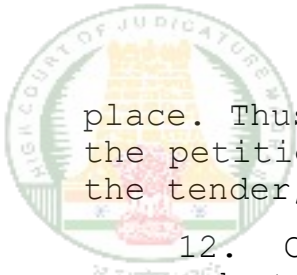
*"Section 56: Agreement to do impossible act*

*An agreement to do an act impossible in itself is void.*

***Contract to do an act afterwards becoming impossible or unlawful-*** A contract to do an act which, after the contract is made, becomes impossible, or, by reason of some event which the promisor could not prevent, unlawful, becomes void when the act becomes impossible or unlawful.

***Compensation for loss through non-performance of act known to be impossible or unlawful-***Where one person has promised to do something which he knew, or, with reasonable diligence, might have known, to be impossible or unlawful, such promisor must make compensation to such promisee for any loss which such promisee sustains through the nonperformance of the promise".

11. The outbreak of Covid-19 pandemic led to large scale disruptions of economic activity and resulted in temporary closure of commercial activities. There was no commerce. The temple and precincts of the temple were closed. There were no footfalls in temples. The premises of the temple remained closed. The petitioner had invested a sum of Rs.1,00,05,000/- (One Crore and Five Thousand Only), hoping to recover the same with some profits during the Pangni (gq;Fdp) festival in 2020. Since the Covid-19 pandemic broke, the petitioner was given an extension of 165 days for the period between 01.01.2021 and 14.06.2021 to compensate the purported loss suffered by the petitioner between 20.03.2022 and 21.08.2022. Though the above extension was given to the petitioner, vide communication, dated 18.12.2021, of the third respondent, the communication was received by the petitioner only on 22.03.2021 which almost three months after letter dated 18.12.2021 was issued. The petitioner was unaware of the extension granted by the temple and/or by the first respondent Commissioner, HR&CE prior to that. Even for the period



place. Thus, the petitioner could not have recouped the amount which the petitioner had spent as a highest bidder while participating in the tender, dated 14.02.2020.

12. Considering the above, I am inclined to direct the respondents to permit the petitioner to collect Mahamai in the ensuing temple festival for the period between March 2022 and 31.05.2022. The respondents may thereafter proceed to the auction the rights for the next festival under the provisions of the Hindu Religious and Charitable Endowments Act, 1959 and the Rules made thereunder. The writ petitions stand disposed of, with the above observations. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-  
Assistant Registrar(CS III)

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/ /2022  
Sub Assistant Registrar(CS)

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To

- 1.The Commissioner,  
Hindu Religious and Charitable Endowments Department,  
No.119, Uthamar Gandhi Salai,  
Thousand Lights West, Nunkambakkam,  
Chennai-34.
- 2.The Joint Commissioner,  
Hindu Religious and Charitable Endowments Department,  
Sivagangai,  
Sivagangai District.
- +2. C.C. to Mr.B.Prahalad Ravi, Advocate SR.No.9885 & 10085.
- +1. C.C. to Mr.T.S.Mohamed Mohidheen, Advocate SR.No.9895.
- +1. C.C. to M/S.SPL.GP Advocate SR.No.10184.

W.P(MD).Nos.14068, 15604,  
17724 and 3569 of 2022 of 2021  
03.03.2022

MK/08.03.2022/7P/7C