



W.P.(MD)No.13937 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 16.08.2022

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Writ Petition (MD) No.13937 of 2022

G.Vijaya

.. Petitioner

Versus

1.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Madurai.

2.The Executive Officer,
Arulmighu Kalyanasundareshwarar Kamatchiamman Thirukovil,
Melur,
Madurai District.

.. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the respondents to permit the petitioner for obtaining electricity connection in Survey No.165/2, to an extent of 0.73 Acres, 165/3, to an extent of 0.48 Acres, 181/2, to an extent of 0.30 Acres, 181/4b, to an extent of 0.24 cents and 185/10, to an extent of 0.27 Acres, situated at Melur, Madurai District, for the purpose of drawing the water from deep well for cultivation and to set up the barbed wire fence on the basis of the representation given by the petitioner, dated 28.03.2022.

For Petitioner : Mr.R.R.Kannan

For R1 : Mr.M.Lingadurai
Special Government Pleader

For R2 : Mr.S.Manohar



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ORDER

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The petitioner, who is the wife of Late.V.M.Gandhi, had sent a representation to the second respondent on 29.03.2022 seeking permission to dig a bore well and to obtain electricity service connection in the name of the Temple.

2.The contention of the learned counsel for the petitioner is that the petitioner's husband Late.V.M.Gandhi is the leaseholder of the following Temple lands for more than 40 years.

Survey No.	Extent Acres/Cent
165/2	0.73
165/3	0.48
181/2	0.30
181/4b	0.24
185/10	0.27

3.The petitioner's husband passed away on 14.11.2004 due to ill-health. Thereafter, the petitioner and her son have been cultivating the lands for the past 17 years and upto the Fasli year 1427, they have been regularly paying the lease amount without any due. When the lands were given for lease, they were classified as nanja lands. Thereafter, due to blockage of river water by putting unauthorized constructions around the lands for the past 8 years, the flow of the river water got obstructed and hence, agricultural activities could not be



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carried out as before. For betterment of agriculture, the primary source is the water, hence, the petitioner needs to dig a borewell, for which, electricity service connection is necessary.

4.In support of her claim, the petitioner had produced the receipt copies available with her from the year 1984. The learned counsel for the petitioner submits that the second respondent Temple filed a proceeding before the Special Deputy Collector, Revenue Court, Madurai, in P.T.No.40 of 2017, seeking arrears of lease amount. The Revenue Court, by order dated 19.05.2017, had directed the petitioner's son namely, G.Pandiarajan to pay a sum of Rs.1,92,762/- towards arrears of lease amount for the Fasli years 1402 to 1417 and 1421 to 1425. Thereafter, the petitioner's son had paid a sum of Rs.1,38,067/- on 01.11.2019, after deducting the amount of Rs.55,579/-, which was already paid, including the amount of Rs.884/-, which was payable towards deficit quantity of paddy. Thus, the entire amount as on 19.05.2017 had been paid. The petitioner has also paid a sum of Rs.27,873/- for the Fasli year 1427 on 26.10.2021. Thereafter, for the subsequent years, the amount could not be paid due to Covid-19 situation and now, the petitioner is ready to pay the balance due within a stipulated time.



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5.The learned counsel for the petitioner produced photographs showing that the land is abutted with residential plots and draining out of sewage into the land. The learned counsel further submits that the petitioner is ready to fence the land and safeguard the same from encroachment.

6.The learned counsel for the petitioner further submits that the petitioner will file an affidavit that the electricity service connection for the borewell will be obtained only in the name of the Temple and therefore, by digging a borewell and obtaining electricity service connection, the petitioner will not claim any right over the same.

7.The second respondent filed a counter affidavit. The learned counsel for the second respondent submits that the petitioner's husband V.M.Gandhi was a lessee of the Temple and he has to give 17.10 Quintal of Paddy per Fasli year towards lease amount. The Temple filed eviction proceedings for Fasli years 1402 to 1425 before the Revenue Court, Madurai. In the meanwhile, the petitioner's husband V.M.Gandhi died and therefore, proceedings were taken against the petitioner's son G.Pandiarajan. Thereafter, on the orders of the Revenue Court, the lease amount has been paid by the petitioner's son. Now, the petitioner's son is in arrears of lease amount for the Fasli years 1428 to 1432. The property is situated in Alagarkovil Main Road, Melur and the



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intention of the petitioner and her son is to put some third party in possession of the property and therefore, they dumped some building materials in the property without the permission of the Temple authorities. Further, the land was leased out only for agricultural purpose and not for any other purposes. There is no cultivation activity for several years and therefore, the petitioner and her son are liable to be evicted as per Section 19 of the Tamil Nadu Public Trusts [Regulation of Administration of Agricultural Lands] Act, 1961 [hereinafter referred to as "the Act, 1961"]. The petitioner is in arrears of the lease amount to the Temple. Further, the petitioner and her son have put up a thatched roof and pipes in the Temple land, which is destructive to the land of the Temple. The petitioner and her son have no intention to carry out any agricultural activities. The petitioner herself had admitted that there are arrears of lease amount to the Temple and the same have been paid after the proceedings initiated before the revenue Court.

8.The learned Special Government Pleader appearing for the first respondent submits that the petitioner cannot claim any right under the Act 1961 in view of the arrears of lease amount, violating the conditions prescribed under the Act 1961. The petitioner for years together has not carried out any agricultural activities in the land. The protection under the Act 1961 is only to the tenants/agriculturists, who put their own physical effort and



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doing agriculture in person. In this case, either the petitioner or her son are not doing any agricultural activities. Further, the area is fast growing sub-urban area and there is no agricultural activities going in and around the area. Perhaps, the petitioner is seeking permission to dig borewell and electricity service connection for other than agricultural purpose.

9.Considering the aforesaid rival submissions and on perusal of the materials, it is seen that there have been claims and counter claims both by the petitioner and the second respondent. The petitioner's son has been proceeded before the Revenue Court under the Act, 1961. As per the directions of the Special Deputy Collector, Madurai, arrears of lease amount upto the Fasli year 1427 has been paid. Now, the petitioner's prayer is limited to consider her representation, dated 29.03.2022, for granting permission to dig a borewell and also for electricity service connection. The petitioner's representation has to be considered by the second respondent. Therefore, the second respondent is directed to make an inspection and find out whether the property is still viable for agricultural activities and after giving an opportunity to the petitioner and thereafter, to consider the petitioner's representation dated 29.03.2022, and dispose of the same within a period of three months from the date of receipt a copy of this order.



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10. With the above direction, this Writ Petition is disposed of. No costs.

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To

The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Madurai.



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M.NIRMAL KUMAR, J.

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Order made in
W.P.(MD)No.13937 of 2022

16.08.2022