



W.A.(MD)No.759 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.07.2022

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**
and
THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.A(MD)No.759 of 2022

and

C.M.P.(MD)Nos.6352 and 6354 of 2022

1.Petchiammal
2.R.Muppiliyan

... Appellants

Vs.

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

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

3.The Inspector,
Hindu Religious and Charitable
Endowments Department,
Alanganallur, Madurai District.

5.K.Muppilirajan
Chairman of Board of Trustees,
Arulmighu Muppilkaruppanasamy Thirukovil,
Thandalai, Vadipatti Taluk, Madurai District.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent to set aside the order of this Court in W.P.(MD)No.12202 of 2022, dated 18.07.2022.



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For Appellants :Mr.T.R.Jeyapalam
For R1 to R3 :Mr.P.T.Thiraviyam
Government Advocate

JUDGMENT

(Judgment of the Court was delivered by **S.S.SUNDAR, J.**)

This Writ Appeal is directed against the order passed by this Court in W.P.(MD)No.12202 of 2022, dated 18.07.2022.

2.Heard Mr.T.R.Jeyapalam, learned Counsel for the appellants and Mr.P.T.Thiraviyam, learned Government Advocate, who takes notice on behalf of R1 to R3. By consent of both parties, the above Writ Appeal is taken up for final disposal at the admission stage itself.

3.It is not in dispute that the disputed property stands in the name of Arulmigu Muppilicaruppanasamy Temple. It is the case of the appellants that the first appellant's husband/the second appellant's father, Chellam @ Ramasamy, was a tenant under the said temple in respect of a property measuring an extent of 0.32.00 hectares in S.No.87/1 in Thandalai Village, Vadipatti Taluk, Madurai District. It is further stated that the first appellant's husband had taken property on lease from the then hereditary trustee, by name, Veeranasamy, in the



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year 1953 and that Chellam @ Ramasamy was recognised as a cultivating tenant by the temple all along. It is also admitted that the first appellant's husband has to pay eight bags of paddy for each bogam and the property, that was leased out to him, is a double crop land. It is also stated that the appellants are contributing their own physical labour and are cultivating the said property as cultivating tenants after the demise of husband of first appellant.

4.The learned Counsel for the appellants produced before this Court documents to show that the appellants are the lessees under the erstwhile hereditary trustee of the temple, who was declared as the hereditary trustee in the application filed by the trustee under Section 63(b) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959.

5.Despite the fact that appellants are cultivating the lands as tenants under the erstwhile hereditary trustee, it appears that new non-hereditary trustees were appointed on account of some problems in relation to the administration of the temple. The new trustees, without even terminating the lease in favour of the appellants, appear to have brought the property for lease by way of a public auction. As per the auction notification, it is seen that the lands, which are in the enjoyment



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of the appellants, are sought to be leased out by public auction to be held on 22.06.2022. Challenging the same, the appellants filed the Writ Petition.

6.The Writ Petition was dismissed by the learned Single Judge of this Court after recording the submissions of the learned Special Government Pleader that as per Section 34 of the Tamil Nadu Public Trusts (Regulation of Administration of Agricultural Lands), Act, 1961, (Tamil Nadu Act 57 of 1961), (hereinafter referred to as “the Act”), no approval has been obtained from the Commissioner for leasing out the property. The contention of the learned Special Government Pleader that the appellants had not paid the lease amount from the year 2011 to 2021 was relied upon by the learned Single Judge while dismissing the Writ Petition.

7.Surprisingly, the learned Single Judge also believed the statement of the learned Special Government Pleader questioning the right of hereditary trustee on the basis of proceedings in Cr.M.P.No.6267 of 2016, which were initiated for taking over charge from the erstwhile trustee. The learned Single Judge then proceeded to hold that nobody has been recognised as cultivating tenant as per the revenue records and that therefore, the appellants' claim that they had paid the rent to the



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hereditary trustee cannot be considered. The Writ Petition was dismissed with the direction to issue fresh public auction notification for tenancy of the said land and to take steps to recover the arrears from the appellants. There was a further direction to give police protection in case, if there is any resistance while conducting fresh auction and handing over the agricultural lands to the successful tenderer.

8.This Court is unable to sustain the order of the learned Single Judge for obvious reasons. Whenever the property belonging to a temple is in the hands of cultivating tenants, the provisions of Tamil Nadu Public Trusts (Regulation of Administration of Agricultural Lands), Act, 1961, are attracted. As per the provisions of the said Act, the Revenue Officer not below the rank of Deputy Collector or Revenue Divisional Officer, authorised by the Government by notification is to exercise the power conferred on and discharge the duties imposed upon the authorised officer under the Act. As per the provisions of the Act, on and after the commencement of the Act, no public trust shall personally cultivate or lease out the land held by the such trustee except in according with the provisions of the Act. The Act also contemplates the provisions relating to eviction of cultivating tenant for reasons. The Act does not give any power to deal with the tenant in the manner not provided under the Act. Section 19 of the Act reads as follows:



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“19. Public trust may evict cultivating tenant in certain cases. - (1) Any public trust may evict any cultivating tenant-

(a) who, if in arrear on the date of the commencement of this Act with respect to the rent payable to the public trust, does not pay such rent within a month after such date, or who in respect of the rent payable to the public trust after the date of the commencement of this Act, does not pay such rent within a month after such rent becomes due; or

(b)(i) who has done any act or has been guilty of any negligence which is destructive of, or injurious to, the land or any crop thereon; or

(ii) who [not being a member of the Armed Forces in Service] has altogether ceased to cultivate the land; or.

(c) who has used the land for any purpose not being an agricultural purpose; or

(d) who has contravened consecutively for two crops the provisions of sub-section (1) or (2) of section 27; or

(e) who has wilfully denied the title of the public trust to the land.”

9. Merely because, new trustees have assumed office pursuant to the order appointing them as non hereditary trustee, they cannot bring the property for public auction, which are in the physical possession of the tenants. In this case, not even a notice terminating the tenancy is issued. It is to be seen that the respondents have not disputed the status of the first appellant's husband as cultivating tenant. As a matter of fact, they have complained non payment of rent and about the arrears of rent for the period from 2011 to 2021. In such circumstances, the learned Single Judge observed that the appellants have not proved their tenancy by producing revenue records. A person, who is in possession of the lands on lease from a religious institution, is a cultivating tenant and entitled to be in possession till date an order of eviction is passed against



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him by invoking the provisions of the Tamil Nadu Public Trusts
(Regulation of Administration of Agricultural Lands), Act, 1961,

10.In that view of the matter, the order passed by the learned Single Judge in W.P.(MD)No.12202 of 2022, dated 18.07.2022 is set aside and the Writ Appeal is allowed and Writ Petition in W.P.(MD)No.12202 of 2022 stands allowed. It is open to the respondents to initiate appropriate proceeding against the appellants in the manner as provided under the relevant statutes. No cost. Consequently, connected miscellaneous petitions are closed.

[S.S.S.R., J.] [S.S.Y., J.]
22.07.2022

Index : Yes / No

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