



W.P(MD).No.16779 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.08.2022

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P(MD).No.16779 of 2022

and

W.M.P(MD).No.12162 of 2022

1.P.Senthil Kumar

2.Purushothaman

3.Viswanathan

4.M.Alagiri

5.B.Indu

6.S.Bhuvaneswari

... Petitioners

Vs.

1.The Joint Commissioner/Executive Officer,
Sri Arulmighu Renganathasamy Thirukkivil,
Srirangam,
Trichy.

2.The Assistant Commissioner,
Sri Arulmighu Renganathasamy Thirukkivil,
Srirangam,
Trichy.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to accept the rents from the petitioner and issue receipts in our name in the light



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of our continued business in the premises belonging to the temple comprised in Shop Nos.11, 6, 9, 10, 8 and 7 respectively situated at East Renganathapuram, Srirangam, Trichy.

For Petitioners : Mr.B.Jameel Arasu
For R1 : Mr.M.Saravanan
For R2 : Mr.M.Lingadurai
Special Government Pleader

ORDER

The petitioners representation on 13.04.2022. The petitioners are running their shops in the temple premises. Initially, the shop was leased to one Seenivasan in the year 2004. Thereafter, the petitioners become a sub-tenant under the said Seenivasan. The said Seenivasan passed away in the year 2010. Thereafter, the petitioners are making rental payments to the temple directly. The temple authorities received the same without any objections. Whenever, the petitioners asked for receipt in their names, it was informed that it will take some time. Further informed that as and when situations arise, the receipts will be given in the name of the petitioners and the tenancy will be regularised. Believing the same, the petitioners continued their business by paying rent. This being so, suddenly, notice was issued to the petitioners asking the petitioners to vacate the shop. The grievance of the petitioners is that they are in temple tenancy for the past 17 years, paying rent without fail. Further they are small time business men and their survival is



based on the business income. Hence, their livelihood is at stake and having no other alternative income, filed this writ petition.

2. The learned counsel for the first respondent filed a counter and type set stating that from the admission of the petitioners, they are sub-tenant under one Seenivasan classifying petitioners as encroachers is appropriate, as encroachers they have no right to seek any remedy. Further, submitted that earlier 12 shops brought under auction on 30.06.2004, 15.07.2004, 31.08.2004, 23.09.2004 and 13.10.2004, in all these auction dates, there were no takers. Finally, on 09.12.2004, one Seenivasan was allotted with six shops, namely, Shop Nos.6 to 11. Under Seenivasan, these petitioners are sub-tenants and now raising objections for issuance of vacate notice. The petitioners are free to participate in the tender proceedings to be initiated. The open tender system are followed to augment the best revenue in the interest of the temple. The petitioners so far not defaulters paying rent in the name of Seenivasan is also not in dispute. The petitioners can very well participate in the public auction, which is to be initiated shortly. He further submitted that as on date, the petitioners are not served with any notice under Section 78 of the Hindu Religious and Charitable Endowments Act. There are 12 shops, the notice asking for the encroachers namely, the six petitioners herein and the other six



shop tenants, whose tenancy been expired. If the petitioners undertake and file an affidavit that in the event of they become unsuccessful in the open tender, they shall immediately hand over the possession of the shop to the temple without raising any objections in any manner or filing any case, the temple shall consider appropriately, not to take any coercive action against them.

3. The learned Special Government Pleader for the second respondent submits that so far no proceedings initiated under Section 78 of the Hindu Religious and Charitable Endowments Act. On the admission of the petitioners there is no doubt that the petitioners are encroachers, when request is made by the Executive Officer, Assistant Commissioner would conduct an enquiry and file a report before the Joint Commissioner to proceed under Section 78 of the Hindu Religious and Charitable Endowments Act, in the event of petitioner filing undertaking affidavit to hand over shops to the successful bidder, they can continue with the present arrangement.

4. Considering the submission and on perusal of the materials, it is seen that the petitioners are sub-tenants under one Seenivasan. The said Seenivasan was allotted six shops only after 5 tenders could not be completed



due to non-participation of tenderers in the year 2004. The said Seenivasan passed away in the year 2010. Thereafter, the petitioners are paying the tenancy amount to the temple in the name of the Seenivasan. After the demise of Srinivasan, the tenancy amount received from the petitioners, since they are occupying the shop and carrying on the business. The petitioners so far not became defaulters/encroachers. In any event, when the temple authorities bring the shops for open auction, the only apprehension of the petitioners is that they would be forcibly vacated and thereafter permitted to participate in the tender. They should be given some preference in the tender process.

5. In view of the same, the petitioners are free to participate in the tender proceedings. If they become successful in the tender, they can continue their tenancy. In the event of becoming unsuccessful, they shall vacate the shop immediately. Their participation is subject to the petitioners filing an affidavit undertaking that they will not have any objections or file any case and refuse to vacate the shop in favour of the successful bidders. Only on such undertaking, the petitioners can participate in tender bid. The temple authorities to consider sympathetically the petitioners' long association as tenant in the temple property without any default.



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6. With the above direction, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes/ No
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To

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