



W.P.(MD)No.18344 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.08.2022**

CORAM:

THE HONOURABLE **MR.JUSTICE M.NIRMAL KUMAR**

W.P.(MD)No.18344 of 2022

and

W.M.P.(MD).No.13360 of 2022

Jeyaprakash

.. Petitioner

Vs

1.The Commissioner,
Tamil Nadu Hindu Religious and Charitable Endowment Board,
Santhome, Chennai.

2.The Joint Commissioner,
Tamil Nadu Hindu Religious and Charitable Endowment Board,
K.K.Nagar, Madurai.

3.The Assistant Commissioner,
Tamil Nadu Hindu Religious and Charitable Endowment Board,
Dindigul.

4.The Executive Officer,
Sri Poolathesswarar Temple,
Chinnamannur,
Uthamapalayam Taluk,
Theni District.

.. Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India to
issue a Writ of Certiorari, calling for the records relates with the



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impugned notice undated issued by the fourth respondent, signed on 04.08.2022 and quash the same as it is arbitrary and illegal.

For Petitioner : Mr.S.Saravanakumar

For Respondents : Mr.M.Lingadurai
1 to 3 Special Government Pleader

For 4th Respondent : Dr.C.Guhaseelarupan
Standing Counsel

ORDER

This Writ Petition has been filed for quashing the notice, directing the petitioner to remove the encroachment and hand over the possession to the temple, pursuant to the order dated 29.03.2022, passed in W.P.(MD).No.6110 of 2015 and M.P.(MD).No.2 of 2015.

2.Mr.M.Lingadurai, learned Special Government Pleader takes notice for the respondents 1 to 3 and Dr.C.Guhaseelarupan, learned Standing Counsel takes notice for the fourth respondent. By consent, this writ petition is taken up for final disposal at the admission stage itself.

3.The learned counsel appearing for the petitioner submitted that earlier, the petitioner had challenged the eviction order passed by the second respondent/Joint Commissioner, in Se.Mu.Na.Ka.No.



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1119/2013/E1, dated 03.09.2014, by way of filing a writ Petition in W.P. (MD).No.6110 of 2015. While disposing of the said writ petition, this Court has recorded as follows:

“3.The petitioners have no records to substantiate that they are the tenants. The petitioners had also suffered an adverse order of the 2nd respondent/the Joint Commissioner dated 03.09.2014 and the subsequent revision before the 1st respondent/the Commissioner was also dismissed by the impugned order dated 27.02.2015. However, considering the fact that the petitioners are in occupation of the property for over 30 years since 1984, I am inclined to dispose of this writ petition by directing the petitioners to pay a sum of Rs.2,50,000/- within a period of 30 days from the date of receipt of a copy of this order. The petitioners shall continue to pay the proportionate rent as may be demanded by the 4th respondent temple for the ensuing period. However, as and when fresh auctions are being held,



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the petitioners will have to participate in the same and in case, the petitioners succeed, they may be allowed to continue. In case, the petitioners fail, they will have to vacate the sites by removing the super structure. No further indulgence can be shown to the petitioners.”

4.He further submitted that pursuant to the same, the petitioner agreed to pay a sum of Rs.2,50,000/- in two installments. Initially, a sum of Rs.1,33,000/- paid through Demand Draft on 08.08.2022 and a sum of Rs.1,17,000/- paid through Demand Draft on 13.08.2022. He had also produced the Demand Draft issued by the fourth respondent before this Court. In view of the same, the petitioner may be given right to participate in the tender. He further submitted that he has challenged the said order passed by this Court.

5.The learned Standing Counsel appearing for the fourth respondent submitted that the petitioner had paid a sum of Rs.2,50,000/-. He further submitted that this Court in earlier Writ Petition has directed



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the petitioner to pay a sum of Rs.2,50,000/- within a period of 30 days from the date of receipt of a copy of that order. The order was passed during the month of March, 2022. After five months, he had paid the said amount. Hence, the petitioner violated the order of this Court.

6.He further submitted that as on date, there is an arrears of more than a sum of Rs.2,30,000/-. If the petitioner has any intention to participate in the tender, he has to pay arrears. When he complies with the said condition, he can participate in the tender.

7.The learned Special Government Pleader appearing for the respondents 1 to 3 submitted that the petitioner is now an encroacher. Earlier, the petitioner's father, namely, Shanmugam, was a tenant of a small portion of the land located in a prime locality. Taking advantage of the same, he encroached the said property. The petitioner's father died and thereafter, the petitioner continued to sit over the property. He has also sub-leased the property and earned huge income. He further submitted that the petitioner is a defaulter for not making payment. Thereafter, on 03.04.2013, the second respondent passed an eviction



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order under Section 78(4) of the Tamilnadu Hindu Religious and Charitable Endowment Act. The removal of the encroacher is now being progressed. In the meanwhile, the temple authority is taking steps to bring the property into public auction.

8.Recording the same, this writ petition is disposed of. No costs. Consequently, the connected Writ Miscellaneous Petition is closed.

23.08.2022

Index: Yes/No
Internet : Yes/No
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