



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **08.04.2022**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. (MD) No.2619 of 2018

and

W.M.P. (MD) Nos.2812 and 14542 of 2018

- 1.Alagappan (died)
- 2.Savithiri
- 3.Jayakumar
- 4.Uma Eswari
- 5.Manivel
- 6.Indhumathi
- 7.Venkatesan

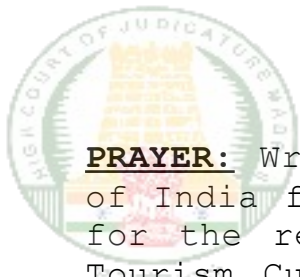
... Petitioners

(P2 to P7 have been impleaded
vide order dated 25.03.2022.

/vs./

1. The Principal Secretary,
Tourism Culture and Religious Endowment Department,
Government of Tamil Nadu,
Fort St.George, Chennai.
2. The Commissioner,
Hindu Religious and Charitable Endowment Department,
119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai -34.
3. The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Trichy Division,
Uthamarkoil Complex,
Pitchandarkoil,
Trichy.
4. The Hereditary Trustee,
A/M.Maha Mariyamman Temple,
Muthu Boopala Samudram,
Kulithalai Taluk,
Karur District.

... Respondents



PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to G.O.(P) No.04 dated 08.01.2018 of Tourism Culture and Religious Endowment Department and quash the same and further direct the respondents 1 to 3 to allow the petition of the petitioner in I.A.No.5/2015 in M.P.No.26/2015 dated 12th December 2016 on the file of the 3rd respondent.

For Petitioners : Mr.R.M.Sivakumar

For R1 to R3 : Mr.P.Subbaraj
Special Government Pleader

For R4 : Mr.K.Govindarajan

ORDER

The deceased petitioner/1st petitioner had challenged the impugned order of the 1st respondent in G.O.(P) No.04 dated 08.01.2018.

2.On the date of the writ petition, the 1st petitioner has died and thereafter, the legal heirs of the deceased petitioner have been impleaded as petitioners 2 to 7, who are representing the interest of the deceased petitioner in this writ petition.

3.It is the specific case of the petitioners that the deceased petitioner was a tenant of the 4th respondent temple for the land measuring an extent of 33 cents. The facts of the case indicate that the 4th respondent temple had initiated proceedings under Section 78 of the Tamil Nadu HR & CE Act, 1959 in M.P.No.26/2015 before the 3rd respondent/the Joint Commissioner. In the aforesaid proceeding, the deceased petitioner was set *ex parte* on 03.09.2015.

4.Under these circumstances, an application was filed to set aside the aforesaid order. The order came to be passed on 12.12.2016, in terms of which as against the total arrears of Rs.2,49,232/-, the deceased petitioner was directed to pay a sum of Rs.1,40,000/-. Aggrieved by the aforesaid order, the deceased petitioner had preferred an appeal before the 2nd respondent/the Joint Commissioner in R.P.No.39 of 2017, which was also dismissed by order dated 24.04.2017 by the 2nd respondent and therefore, the deceased petitioner filed a revision petition under Section 114 of the HR & CE Act, 1959, which has also been dismissed by the 1st respondent. Aggrieved by the same, the deceased petitioner had filed the present writ petition.



5. In the present writ petition, there was an interim order, pursuant to which the deceased petitioner has now deposited a sum of Rs.1,40,000/-. It is the further case of the petitioners that the petitioners 2 to 7 are now in possession of only 3 cents of land out of 33 cents of land and that 30 cents of the land has been taken back by the 4th respondent temple. It is submitted that the petitioners are willing to deposit the balance amount as on 2015, when the proceedings were initiated under Section 78 of the Act and the rent for the ensuing period for 3 cents of land in their possession.

6. Opposing the prayer, the learned counsel for the official respondents submits that the writ petition is devoid of merits as there is no material irregularity in the procedure adopted either by the official respondents while disposing of the petition filed by the 4th respondent or the appeal and the revision that came to be filed before the respondents 2 and 1 respectively. That apart, it is submitted that the deceased petitioner was negligent and had allowed himself to set *ex parte* and that a conditional order came to be passed on 23.10.2015 by directing the deceased petitioner to pay a sum of Rs.1,40,000/- as against the rental arrears of Rs.2,49,232/-.

7. It is submitted that even that amount was not paid and was subsequently paid only at the time of admission of the writ petition pursuant to the interim order of this Court dated 09.12.2018. The learned counsel for the 4th respondent submits that as on date, the petitioners are in total arrears of Rs.1,96,976/- and that the statement of the learned counsel for the petitioners that the petitioners are in possession of only 3 cents of land out of 33 cents of land is not true.

8. The learned counsel for the official respondents further submits that the pendency of the writ petition came in the way of evicting the petitioners though the petitioners have been in default.

9. I have considered the arguments advanced by the learned counsel for the petitioners, learned counsel for the official respondents and the learned counsel for the 4th respondent.

10. I do not find any irregularity in the impugned orders of the respondents 1 to 3 while passing the orders at its stage of the proceedings. This Court is not really concerned with the decision but only with the decision making process. Therefore on this count also, the writ petition appears to be without any merits and is therefore liable to be dismissed.



11. That apart, the arrears that were due as on date when M.P.No.26/2015 was filed, was Rs.2,49,232/-. However, that amount has not been paid. Despite a conditional order being made on 12.12.2016 in I.A.No.5/2015 in M.P.No.26/2015, the deceased petitioner did not come forward to pay the amount. The amount was paid only pursuant to the interim order passed by this Court on 09.12.2018. It is not open for the petitioners 2 to 7 to now plead that the land to an extent of 30 cents is not in their control or possession.

12. Under these circumstances, I am inclined to dispose of this writ petition by directing the petitioners 2 to 7 to pay the arrears as on date, which has been quantified at Rs.1,96,976/-. In case it is the case of the petitioners that there are other persons occupying the property, which has been leased to the petitioners' 2 to 7 father and was under their control, it is open for them to initiate appropriate proceedings against the persons, who are in occupation of the land in accordance with law. In case, the petitioners 2 to 7 fail to pay the arrears amount within a period of 60 days from the date of receipt of a copy of this order, the respondent temple is at liberty to initiate appropriate proceeding under Section 79 of the Tamil Nadu HR & CE Act, 1959 against them. The amount that is payable by the petitioners 2 to 7 as arrears of Rs.1,96,976/- is subject to any concession, which the 4th respondent may agree.

13. The writ petition stands disposed of, in terms of the above observations. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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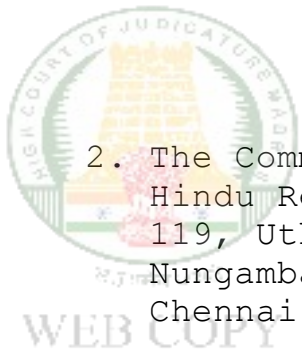
/ /2022

Sub Assistant Registrar (CS)

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To

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3. The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Trichy Division, Uthamarkoil Complex,
Pitchandarkoil, Trichy.

+1 CC to M/s.K. GOVINDARAJAN, Advocate (SR-17713[F] dated 11/04/2022)

+1 CC to M/s.RM. SIVAKUMAR, Advocate (SR-17749[F] dated 11/04/2022)

+1 CC to M/s.SPL.GP (SR-17895[F] dated 11/04/2022)

W.P. (MD) No.2619 of 2018

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