



W.P.(MD).No.21947 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.10.2022

CORAM

THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

W.P.(MD).No.21947 of 2022

A.Annalakshmi

... Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Chennai.

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

3.The Deputy Commissioner/Executive Officer,
Arulmighu Sankaranarayana Swamy Thirukovil,
Sankaran Kovil,
Tenkasi District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the 3rd Respondent in his proceedings in Na.Ka.No.856/2022/A2 dated 21.07.2022 and quash the same as illegal, arbitrary, violation of law and further direct the 3rd Respondent to take necessary steps to repay the amount within the stipulated period which this Court may deem fit and proper and thus render justice.



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For Petitioner : Mr.M.Jothi Basu
For R-1 and R-2 : Mr.N.Ramesh Arumugam,
Government Advocate.
For R-3 : Mr.V.R.Shanmuganathan,
Standing Counsel.

ORDER

The Writ Petition is filed challenging the impugned proceedings dated 21.07.2022, whereby, the petitioner's request for refund of the lease amount of Rs.7,89,900/- paid for a period of three years from 01.07.2021 to 30.06.2024 was rejected.

2. The petitioner is an agriculturist. The Punja land situated in Survey Nos.546, 547, 548, 549, 550, 553 and 554, Vasudevanallur Village, Sivagiri Taluk, Tenkasi District admeasuring 17 Acres and 62 cents belongs to Arulmighu Sankaranarayana Swamy Thirukovil, Sankarankovil. The 3rd Respondent had invited applications/tenders for lease of the above land for a period of three years from 01.07.2021 to 30.06.2024. The petitioner submitted a bid amount of Rs.7,89,900/- and turned out to be the successful bidder. The petitioner paid a sum of Rs.6,00,000/- to the 3rd Respondent on 30.07.2021 and the remaining sum of Rs.1,89,000/- on 02.08.2021. In all, the petitioner has



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paid a sum of Rs.7,89,900/-. Thereafter, it was found by the petitioner that water source to the said land is a Well and Kurukankulam Tank, which belongs to Vasudevanallur Panchayat Union and there were several encroachments in the banks, which stops the flow of water into the tank, thereby making it impossible to carry on agricultural activities. Further, it is submitted that there was no supply of electricity connection.

3. It is submitted by the learned counsel for the petitioner that it is the duty of the 3rd Respondent Temple to ensure that the encroachments are removed and the land which is leased out, is suitable for agriculture. In view of the same, the petitioner submitted a representation dated 07.07.2022 expressing the circumstances set out above, amongst other difficulties faced by her and requesting refund of the lease amount paid by the petitioner. However, the same was rejected by the impugned order without dealing with any of the reasons set out by the petitioner in the said representation. In other words, the impugned order suffers from the vice of being a non-speaking order.

4. Mr.N.Ramesh Arumugam, learned Government Advocate appears on behalf of the 1st and 2nd Respondents. Mr.V.R.Shanmuganathan, learned Standing Counsel appears on behalf of the 3rd Respondent.



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5. There seems to be merit in the submission of the learned counsel for the petitioner that the impugned order has been passed without considering the representation of the petitioner dated 07.07.2022. It is well settled that any proceedings which has civil consequences would have to be in compliance with the principles of natural justice and one of the facets of natural justice is to set out the reasons in support of the conclusion. This Court is of the view that there is violation of principles of natural justice inasmuch as the impugned order only sets out the difficulties expressed by the petitioner vide her representation dated 07.07.2022, however, the same is not dealt with while coming to the conclusion that the petitioner is not entitled to refund of the lease amount.

6. In view of the above, this Court is of the view that the impugned order is liable to be set aside with liberty to the 3rd Respondent to pass fresh orders on merits and in accordance with law, after affording an opportunity to the petitioner and by setting out reasons for refusal to accede to the petitioner's request for grant of refund, within a period of eight (8) weeks from the date of receipt of a copy of this order.



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7. Accordingly, this Writ Petition is disposed of. There shall be no order as to costs.

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Index : Yes / No
Internet : Yes/ No
Lm

To

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MOHAMMED SHAFFIQ, J.

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