



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.03.2022

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. (MD) .Nos.23516, 23520, 23524 and 23526 of 2019
and
W.M.P. (MD) .Nos.20143, 20146, 20149 and 20151 of 2019

W.P. (MD) .No.23516 of 2019:

Ravichandran

... Petitioner

Vs.

1.The Joint Commissioner / Executive Officer,
Kanyakumari District Temples,
Susindram,Agastheeswaram Taluk,
Kanyakumari District.

2.The Manager,
Arulmigu Mahadevar Temple,
Thirparappu,
Kanyakumari District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to proceedings of the second respondent, dated 19.10.2019, in respect of Shop No.10 and quash the same and consequently direct the respondents to extend the lease period in respect of Shop No.10 at Arulmigu Mahadevar Temple, Thirparappu, Kanyakumari District, by fixing appropriate rent, in term of G.O.No.456 Tamil Development and Hindu Religious and News (Ani - 4-2) Department, dated 09.11.2007.

For Petitioner	: Mr.R.Murali
For Respondents	: Mr.K.Sathiya Singh, Standing Counsel.

W.P. (MD) .No.23520 of 2019:

K.Hari

... Petitioner

Vs.

1.The Joint Commissioner / Executive Officer,
Kanyakumari District Temples,
Susindram,Agastheeswaram Taluk,
Kanyakumari District.



2.The Manager,
Arulmigu Mahadevar Temple,
Thirparappu,
Kanyakumari District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to proceedings of the second respondent dated 19.10.2019, in respect of Shop No.11 and quash the same and consequently direct the respondents to extend the lease period in respect of Shop No.11 at Arulmigu Mahadevar Temple, Thirparappu, Kanyakumari District, by fixing appropriate rent, in term of G.O.No.456 Tamil Development and Hindu Religious and News (Ani - 4-2) Department dated 09.11.2007.

For Petitioner : Mr.R.Murali
For Respondents : Mr.K.Sathiya Singh,
Standing Counsel.

W.P. (MD) .No.23524 of 2019:

R.Krisnadhas

... Petitioner

Vs.

1.The Joint Commissioner / Executive Officer,
Kanyakumari District Temples,
Susindram,
Agastheeswaram Taluk,
Kanyakumari District.

2.The Manager,
Arulmigu Mahadevar Temple,
Thirparappu,
Kanyakumari District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to proceedings of the second respondent dated 19.10.2019, in respect of Shop No.7 and quash the same and consequently direct the respondents to extend the lease period in respect of Shop No.7 at Arulmigu Mahadevar Temple, Thirparappu, Kanyakumari District, by fixing appropriate rent, in term of G.O.No.456 Tamil Development and Hindu Religious and News (Ani - 4-2) Department dated 09.11.2007.

For Petitioner : Mr.R.Murali
For Respondents : Mr.K.Sathiya Singh,
Standing Counsel.



W.P. (MD) .No.23526 of 2019:

Baby

... Petitioner

Vs.

1.The Joint Commissioner / Executive Officer,
Kanyakumari District Temples,
Susindram,
Agastheeswaram Taluk,
Kanyakumari District.

2.The Manager,
Arulmigu Mahadevar Temple,
Thirparappu,
Kanyakumari District.

...Respondents

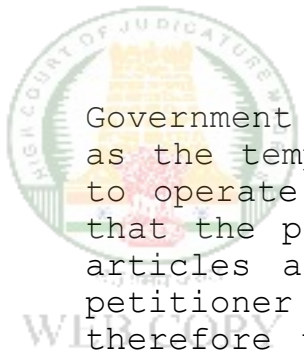
Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to proceedings of the second respondent dated 19.10.2019, in respect of Shop No.6 and quash the same and consequently direct the respondents to extend the lease period in respect of Shop No.6 at Arulmigu Mahadevar Temple, Thirparappu, Kanyakumari District, by fixing appropriate rent, in term of G.O.No.456 Tamil Development and Hindu Religious and News (Ani - 4-2) Department dated 09.11.2007.

For Petitioner	:	Mr.R.Murali
For Respondents	:	Mr.K.Sathiya Singh, Standing Counsel.

COMMON ORDER

The petitioners in these writ petitions were allotted shops in the temple premises of Arulmigu Mahadevar Temple, Thirparappu, Kanyakumari District. They were given a licence for a period of three years in terms of the tender called for by the respondents on 13.10.2016. The period of licence expired on 31.12.2019. It is submitted that the petitioners were in arrears and therefore the impugned notice were issued calling upon them to pay the arrears of lease rent, licence fee and to vacate the premises. The petitioners have approached this Court during November 2019. Meanwhile, during the pendency of the writ petition due to the out break of Covid-19 Pandemic, the temples were remained closed and therefore the petitioners continued to be in possession of the shops allotted to them.

2. The learned counsel for the petitioner submits that the petitioners are to pay the arrears as has been demanded in the impugned order. The learned counsel for the petitioner further submits that for period during lock down, there has been a



Government order giving abatement from collection of rents inasmuch as the temple were closed and consequently, shops were not allowed to operate. The learned counsel for the petitioner further submits that the petitioners are small time vendors who survive by selling articles around the temple premises. The learned counsel for the petitioner further submits that the temples are now opened and therefore the petitioner may be allowed to continue for a further period.

3. Opposing the prayer, learned counsel for the respondents submits that 21 shops were built around the temple premises and that 13 shops were vacated and that the order has been passed by this Court in W.P.(MD).No.26541 to 26543 of 2019, dated 12.12.2019. It is submitted that since the petitioners are in possession of the shops the respondents are enable to call for a fresh tender for the ensuing period though licence period has expired. It is further submitted that it is open for the petitioner to participate in the fresh tender that will be called subject to the petitioners clearing the arrears for use and occupation during the period commencing from 01.01.2020 till now, apart from the arrears that have been demanded in the impugned order. It is therefore submitted that the present writ petitions may be dismissed with the above observations.

4. I have considered the arguments advanced by the learned counsel for the petitioners and the learned counsel for the respondents.

5. The petitioners appear to be small time vendors, who have paid a security deposit of Rs.50,000/- and were requested to pay monthly licence fee to the temple authority. They were paying the licence fee as and when they were having amounts. It appears that they were in arrears at the time when impugned orders were issued on 19.10.2019. This was almost at the fag end of the period of the licence, which was to expire on 31.12.2019. Therefore, the petitioners cannot demand a right to continue to be in possession of the licenced premises any longer. They have over stayed in the licenced premises. The petitioners however continue to possess the same partly on account of the fact that the temple remained closed due to out break of Covid -19 Pandemic restrictions.

6. Be that as it may, I am inclined to dispose the writ petitions by directing the respective petitioners to pay the arrears of lease/licence amount to the respondent temple immediately for the period upto 31.12.2019 and for the period after the lock down was lifted within a period of thirty days failing which the respondents are entitled to proceed against the petitioners in accordance with law. The respondents may proceed with the auction and also give opportunity to the petitioners to participate in the auction by getting a consent letter from them that they will vacate immediately in case the shop is allotted to any other successful bidder. The respondents may also consider the case of the petitioners that have

<https://hcrs.courts.mys.gov.in/hcrs/ivc/>



been out of the business for almost a year and a half years due to Covid-19 Pandemic and give them concession for period during lockdown as has been given in the case of other major temples.

7. The writ petitions stand disposed of with the above observations. No costs. Consequently, the connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

To

1.The Joint Commissioner / Executive Officer,
Kanyakumari District Temples,
Susindram,
Agastheeswaram Taluk,
Kanyakumari District.

2.The Manager,
Arulmigu Mahadevar Temple,
Thirparappu,
Kanyakumari District.

+1CC to M/s.T.SATHIYA SINGH, Advocate (SR-11727[F] dated 14/03/2022)
+1CC to M/s.T.SATHIYA SINGH, Advocate (SR-11723[F] dated 14/03/2022)
+1CC to M/s.T.SATHIYA SINGH, Advocate (SR-11730[F] dated 14/03/2022)
+1CC to M/s.T.SATHIYA SINGH, Advocate (SR-11728[F] dated 14/03/2022)
+1CC to M/s.M.SURESH KUMAR, Advocate (SR-11932[F] dated 14/03/2022)

W.P. (MD) .Nos.23516, 23520,
23524 and 23526 of 2019
11.03.2022

SN

MS/25.03.2022/5P.8C