



W.P.Nos.2844, 2845 & 2847 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2023

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THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.Nos.2844, 2845 & 2847 of 2020

and

WMP.Nos.3286, 3287 & 3290 of 2020

R.Ravi	...Petitioner in W.P.No.2844 of 2020
Selvi	...Petitioner in W.P.No.2845 of 2020
P.Kuppusamy	...Petitioner in W.P.No.2847 of 2020

Vs.

1. The Commissioner,
Hindu Religious and Charitable Endowment Department,
Nungambakkam, Chennai – 600 034.
 2. The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Salem - 636 001.
 3. Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Dharmapuri - 636 701.
 4. Fit Person / Executive Officer,
A/m. Karaga Samundiamman Temple,
Krishnagiri - 635 001.
- ...Respondents in all W.P's

Prayer in W.P.No.2844 of 2020: Petition filed under Article 226 of the



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Constitution of India to issue a Writ of Mandamus forbearing the respondents, their men, agents and servants or anybody claiming through them or under them in any manner, interfering with the peaceful possession and enjoyment of the petitioner's shop along with the superstructure having an extent of 245 sq.ft., in T.S.No.11/7, Ward-C, Block-14, situated at Chennai Salai, Krishnagiri Town and Taluk.

Prayer in W.P.No.2845 of 2020: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the respondents, their men, agents and servants or anybody claiming through them or under them in any manner, interfering with the peaceful possession and enjoyment of the petitioner's shop along with the superstructure having an extent of 62 sq.ft., in T.S.No.11/7, Ward-C, Block-14, situated at Chennai Salai, Krishnagiri Town and Taluk.

Prayer in W.P.No.2847 of 2020: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the respondents, their men, agents and servants or anybody claiming through them or under them in any manner, interfering with the peaceful possession and enjoyment of the petitioner's shop along with the superstructure having an extent of 112 sq.ft., in T.S.No.11/7, Ward-C, Block-14, situated at Chennai Salai, Krishnagiri Town and Taluk.

In all W.P's.:

For Petitioner : Ms.G.Sumitra

For Respondents : Mr.K.Karthikeyan, GA (HR &CE)

COMMON ORDER

Since the issue involved in all these Writ petitions are similar in nature, they are disposed of by way of this common order.



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2. These Writ petitions have been filed seeking direction of this Court forbearing the respondents or anybody claiming through them or under them in any manner, interfering with the peaceful possession and enjoyment of the petitioners' shops situated in T.S.No.11/7, Ward-C, Block-14, Chennai Salai, Krishnagiri.

3. The case of the petitioners is that, the petitioners are in occupation of the land owned by the 4th respondent temple comprised in S.No.11/7, situated at Chennai Salai, Krishnagiri and are running their own business for the past several years. While so, upon receipt of the notice of the 4th respondent date 11.04.2014, followed by the show cause notice dated 05.10.2014 issued by the 2nd respondent, the petitioners came to know that, the 4th respondent temple comes under the control of the HR & CE Department and the subject land in which the petitioners are in possession belongs to the 4th respondent. Upon receipt of the said show cause notice, the petitioners sent their replies, however, without considering the same, the 2nd respondent passed an order dated 30.11.2016, holding that, the petitioners are encroaches and directed to surrender the vacant possession of the subject land. Aggrieved by the above said order, the petitioners and



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other occupants filed Revision petitions before the 1st respondent and all the revision petitions were heard jointly and a common order dated 03.07.2017 came to be passed, fixing rent as per Section 34A of the Tamilnadu H.R. & C.E. Act and the petitioners are paying the said rent fixed regularly. While such being the case, the 4th respondent issued a public notice by way of publication in local new paper on 08.01.2020, calling for public auction cum tender in respect of various extents of land comprised in S.No.11/7, belonging to the 4th respondent temple. Hence, the petitioners have come up with these Writ petitions.

4. Though very many grounds have been raised, the learned counsel for the petitioners submitted that, the petitioners herein are paying the rent fixed by the 1st respondent, vide order dated 03.07.2017 without any default, while so, the 4th respondent issued a public notice dated 08.01.2020, calling for public auction/tender in respect of various extents of subject land, which is not sustainable and the same is contrary to the order passed by the 1st respondent. Hence, she submitted that, it would suffice, if this Court issues necessary directions forbearing the respondents from interfering with the peaceful possession and enjoyment of the petitioners' respective shops



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situated in the subject land comprised in S.No.11/7, owned by the 4th respondent temple.

5. Learned Government Advocate appearing for the HR & CE Department submitted that, though the petitioners, alleged that they are the tenants of the 4th respondent temple and have come up with these Writ petitions seeking directions of this Court to forbear the respondents from interfering with the peaceful possession over their respective shops situated in the subject land as they claim to have been paying the fair rent fixed by the 1st respondent, vide order dated 03.07.2017. However, the temple/HR & CE Department has rights/authority to give the temple property for public auction and for the purpose of enhancing rent amount. Further, the public property has to be disposed only by way of public auction and without challenging the auction/tender notice, filing the present Writ petitions seeking mere mandamus is impermissible. Hence, he prayed for dismissal of these Writ petitions.

6. Heard learned counsel on either side and perused the materials available on record.



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7. On perusal of the material documents placed on record, it is evident that, the 1st respondent, vide order dated 03.07.2017 fixed a fair rent and it is the claim of the petitioners that, they are paying their fair rent fixed, vide order dated 03.07.2017 without any default. If it is so, as rightly pointed out by the learned Government Advocate, without challenging the public notice issued by the 4th respondent by way of publication in local new paper on 08.01.2020, filing these Writ petitions seeking mandamus cannot be entertained. Further, the 4th respondent temple has power to enhance the rent/lease and brought the property for public auction. Hence, this Court is not inclined to issue any affirmative direction in favour of the petitioners.

8. For the reasons aforesaid, these Writ Petitions stand dismissed. However, it is open to the petitioners to challenge the auction notice, if so advised, in accordance with law. No costs. Consequently, connected Miscellaneous petitions are closed.

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NCC : Yes / No
Speaking Order : Yes / No
Index : Yes / No

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