



Writ Petition No.12510 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.12510 of 2023

and

W.M.P.No.12340 of 2023

N.Omprakash

S/o.T.K.Narasimman

... Petitioner

Vs.

1.The Commissioner,

Hindu Religious and Charitable Endowment,
119, Nungambakkam High Road,
Nungambakkam, Chennai - 34.

2.The Joint Commissioner,

Hindu Religious and Charitable Endowment,
11/20 A.K.T. Street,
Near Rangasamy Tank,
Kancheepuram - 631 501.

3.The Executive Officer,

Hindu Religious and Charitable Endowment,
Arulmigu Kumarakottam Temple,
Arulmigu Vijayaraghava Perumal Temple,
East Raja Street, Kancheepuram - 631 501.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus forbearing the respondents from peaceful possession and enjoyment of the property comprised in



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S.No.428 of an extent of 15.90 cents situated at Thiruppukkuzhi Village, Kancheepuram District and consequently, direct the third respondent to grant extension of lease period from 2023 to 2025 based on the petitioner's representation dated 07.04.2023.

For Petitioner : Mr.M.G.Ramachandiran

For Respondents : Mr.S.Yashwanth
Additional Government Pleader

ORDER

This writ petition has been filed seeking issuance of a writ of mandamus forbearing the respondents from disturbing the peaceful possession and enjoyment of the property comprised in S.No.428 of an extent 15.90 cents situated at Thiruppukkuzhi Village, Kancheepuram District and consequently, direct the third respondent to grant extension of lease period from 2023 to 2025 based on the petitioner's representation dated 07.04.2023.

2. Heard Mr.M.G.Ramachandiran, learned counsel for petitioner and Mr.S.Yashwanth, learned Additional Government Pleader appearing for respondents.



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3. The case of the petitioner is that the subject property was initially leased by the third respondent temple to the father of the petitioner in the year 1965. The property is being utilized for agricultural purposes and after the demise of the father of the petitioner in the year 2015, the petitioner and his brother are said to be continuing with the cultivation in the subject property.

4. The grievance of the petitioner is that the third respondent, all of a sudden, announced a public auction on 01.03.2023 and all steps were taken to evict the petitioner and take over possession of the entire property. According to the petitioner, he and his family are eking out their livelihood only from the income derived from the agricultural lands and hence, left with no other option, the present writ petition has been filed before this Court.

5. Learned Additional Government Pleader appearing on behalf of respondents submitted that the public auction was held on 30.03.2023 and the entire subject property was segregated into three parts. The total bid that was made was a sum of Rs.2,39,000/-.



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6. Mr.S.Yashwanth, learned Additional Government Pleader, appearing for respondents, based on the written instructions received from the third respondent, submitted that this writ petition is an abuse of process of Court. Learned Additional Government Pleader submitted that the father of the petitioner when he was alive, filed a suit in O.S.No.136 of 2011 before the District Munsif Court, Kancheepuram and sought for the relief of permanent injunction restraining the department from taking possession of the property. This suit was dismissed on 19.10.2016. Even thereafter, the petitioner and his brother have been continuing to illegally occupy the valuable property measuring an extent of 15.90 acres. That apart, there were also complaints given to the third respondent to the effect that they have further sub-leased the property to some other persons. The petitioner has not paid any amount for the last 10 years and the petitioner and his family have been utilizing the property. There was lot of objection made in this regard by the general public. Hence, a decision was taken to put the subject property to public auction in order to augment revenue for the temple. In the mean time, on coming to know that steps are being taken by the department to auction the property, the petitioner filed O.S.No.30 of 2023 before the Munsif Court, Kancheepuram and in the said suit, I.A.No.5 of 2023 was filed seeking



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for an order of interim injunction restraining the respondents from taking possession of the property pending disposal of the suit. This application was dismissed by the concerned Court. Thereafter, the subject property was brought for public auction.

7. Learned counsel for the petitioner submitted that the petitioner did not give any instructions regarding the suits that were filed and there was no intention on the part of the petitioner to conceal any facts before this Court. Learned counsel, in fact, sought for the permission of this Court to withdraw this writ petition.

8. In the considered view of this Court, this Court exercising its jurisdiction under Article 226 of the Constitution of India is dealing with valuable rights of citizens. If such is the seriousness of the rights that is involved while exercising its jurisdiction, no leniency can be shown if a petitioner approaches this Court with unclean hands by concealing material facts. If this Court permits withdrawal of the writ petition it will set a trend and everyone will get an impression that they can get away from the Court by ultimately withdrawing the writ petition if they are caught for not revealing the material facts. This Court has to come down



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heavily against persons, who approach the Court with unclean hands.

The right that is sought to be enforced in a writ jurisdiction should never be taken for granted and hence, a person is expected to approach the Court with clean hands by revealing all the material facts.

9. In the instant case, the petitioner has conveniently concealed the suit filed by his father and the later suit that was filed by the petitioner and he has come before this Court seeking for an innocuous remedy as if the petitioner and his family members are eking out their livelihood from the agricultural lands and the same is sought to be interfered with by the department. The petitioner intentionally concealed about filing of the suits and what the petitioner was not able to achieve before the civil Court is sought to be achieved in this writ petition. In the light of the same, the same cannot be taken lightly and it has to be dealt with all seriousness.

10. This Court does not find any merits in this writ petition and this writ petition is a clear case of abuse of process of Court and it warrants a dismissal with exemplary costs.



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In the result, this Writ Petition is dismissed. There shall be a direction to the petitioner to pay a sum of Rs.10,000/- [Rupees Ten Thousand only] to the Tamil Nadu State Legal Services Authority within a period of four (4) weeks from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

24.04.2023

Neutral Citation: Yes/No
Index: yes/no
Speaking Order/Non-Speaking Order
gm

To

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Nungambakkam, Chennai - 34.
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N.ANAND VENKATESH, J

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