



W.P.Nos.16022 of 2023
etc. cases

In the High Court of Judicature at Madras

Reserved on : 09.6.2023	Delivered on : 13.6.2023
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Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Writ Petition Nos.16022, 16024, 16028, 16029, 16030,
16031, 16032, 16034, 16035, 16037, 16040 and 16043 of 2023 &
All connected pending WMPs

K.Duraisamy

...Petitioner in
Both WP.Nos.
16022 & 16024
Of 2023

K.Devaraj

...Petitioner in
WP.No.16028 of
2023

Thangavel

...Petitioner in
WP.No.16029 of
2023

D.Ponnammal

...Petitioner in
WP.No.16030 of
2023

K.Loganathan

...Petitioner in
WP.No.16031
of 2023

M.Murugesan

...Petitioner in
WP.No.16032
of 2023

A.Velumani

...Petitioner in



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WP.No.16034
of 2023

1.M.Rameshkumar
2.K.Loganathan

...Petitioners in
WP.No.16035
of 2023

R.Krishnaveni

...Petitioner in
WP.No.16037
of 2023

Ponmani

...Petitioner in
WP.No.16040
of 2023

1.R.Krishnaveni
2.A.Velumani

...Petitioners in
WP.No.16043
of 2023

Vs

- 1.The State of Tamil Nadu, rep.by
Its Secretary, Department of Tourism
Culture and Religious Endowments
(RE 5 -2), Secretariate, Chennai.
- 2.The Commissioner, Tamil Nadu
Hindu Religious and Charitable
Endowment Board, Chennai.
3. The Joint Commissioner, Tamil Nadu
Hindu Religious and Charitable
Endowment Board, Coimbatore-18.
- 4.The Assistant Commissioner/
Executive Officer, Arulmigu
Patteswarar Swami Thirukovil,

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Perur Village, Coimbatore Taluk
And District.

...R1 to R4 in
all the WPs

5.Dhanabal

...R5 in both
WP.Nos.16028
& 16029/2023

PETITIONS under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records pertaining to the impugned G.O.(Ms.) No.137 Tourism, Culture and Religious Endowments (RE 5 -2) Department dated 24.3.2023 passed by the first respondent in respect of R.P.Nos.7 and 8/2018, 50/2017, 50/2017, 15/2018, 25/2018, 9/2019, 38/2017, 35/2018, 5/2018, 49/2017 and 11/2018 respectively and quash the same.

For Petitioners in all the WPs :	Mr.Anandhamurthy for Mr.R.Kannan
For Respondents 1 to 4 in all the WPs	: Mr.N.R.R.Arun Natarajan, SGP (HR&CE)

COMMON ORDER

Since the issue involved in all these writ petitions is one and the same and the grievance expressed by the petitioners is common, these writ petitions are taken up together, heard and disposed of through this common order.



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2. The petitioners, who claimed to be agriculturists/statutory tenants and one of the petitioners claiming to be a direct tenant under the Tamil Nadu Hindu Religious and Charitable Endowments Department, have filed these writ petitions challenging the Government Order in G.O.Ms.No.137 Forests, Culture and Religious Endowments dated 24.3.2023 passed by the first respondent.

3. The particulars of the properties occupied by each of the petitioners and their status are tabulated and extracted as hereunder:

S.No	W.P.No. of 2023	Name of the petitioner(s)	S.F.No.	Extent (hec.)	Status
1	16022	K.Duraisamy	171/1	0.39.0	Adangal Agriculturist
2	16024	K.Duraisamy	172/1 & 173/2	0.76.0	Statutory tenant
3	16028	K.Devaraj	184/2	0.39.0	Adangal Agriculturist
4	16029	Thangavel	184/3	0.39.0	Adangal Agriculturist
5	16030	D.Ponnammal	169/3	0.73.0	Adangal Agriculturist
6	16031	K.Loganathan	183/3, 4	0.71.0	Statutory tenant
7	16032	M.Murugesan	172/2 173/9	0.21.0	Adangal Agriculturist
8	16034	A.Velumani	175/2, 4	1.77.0	Direct tenant of HR & CE Department
9	16035	M.Rameshkumar & another	181/4, 6	0.52.0	Statutory tenant
10	16037	R.Krishnaveni	180/1	0.40.0	Adangal



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S.No	W.P.No. of 2023	Name of the petitioner(s)	S.F.No.	Extent (hec.)	Status
					Agriculturist
11	16040	Ponmani	182/4	0.19.0	Adangal Agriculturist
12	16043	R.Krishnaveni & another	175/3	0.86.0	Statutory tenant

4. The case of the petitioners is that they are in occupation of their respective properties for the period starting from 30 to 70 years and all the petitioners claimed to be cultivating tenants and they have put their labour and raised crops/groves in the respective properties. Originally, these lands were Inam lands given to service holders and the petitioners took these lands on lease from the service holders and were paying rents from time to time.

5. The temple namely Arulmigu Patteswara Swamy Temple terminated the right of the service holders. The petitioners claimed that after termination of the rights, they were enjoying their respective properties with the knowledge of the fourth respondent and were also making payments to the fourth respondent subject to the approval of the second respondent.



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6. The third respondent initiated proceedings under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (hereinafter called the Act) in the year 2013 and the petitioners were treated as encroachers. Notices were issued and a reply was given by the petitioners. Among them, two persons namely the petitioners in W.P.Nos.16028 and 16029 of 2023 claimed that the notice was issued to one Mr.Dhanabal, who had nothing to do with the properties and he filed a reply stating that he had nothing to do with the tenancy and that the proceedings must be closed in so far as he was concerned. The third respondent rejected the claim put forth by the petitioners and directed them to surrender the respective lands.

7. Aggrieved by the order passed by the third respondent, the petitioners filed a revision before the second respondent, who confirmed the order passed by the third respondent. In so far as W.P.Nos.16028 and 16029 of 2023 are concerned, such revision was filed by the said Mr.Dhanabal and not by the petitioners concerned. As against the order passed by the second respondent, the second revision was filed before the first respondent, who, by virtue of the impugned Government Order, rejected the claim made by the



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petitioners and confirmed the order passed by the second respondent, who, in turn, confirmed the order passed by the third respondent. Aggrieved by that, all these writ petitions have been filed before this Court.

8. I have heard Mr.Anandhamurthy, learned counsel appearing on behalf of Mr.R.Kannan, learned counsel on record for the petitioners and Mr.N.R.R.Arun Natarajan, learned Special Government Pleader appearing for respondents 1 to 4.

9. It is seen from the records that the petitioners had originally entered into an agreement with the service holders and were paying the rents. The Settlement Tahsildar, under the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 (Act XXX of 1963) [for short, the Minor Inams Act], held an enquiry and initially an order was passed directing issuance of patta under Section 8(2)(ii) of the Minor Inams Act after holding that they were not entitled for patta under Section 8(2)(i) of the Minor Inams Act. As against the same, both the service holders as well as the temple preferred appeals before the Tribunal concerned questioning the correctness of the order passed



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by the Settlement Tahsildar. Further, the Tribunal concerned reversed the order passed by the Settlement Tahsildar and held that the ryotwari patta had to be granted to the service holders by treating the same as Iruvaram grants.

10. Aggrieved by this order, appeals were preferred before this Court by the temple and all the appeals were allowed by judgment dated 29.8.1978. Further, the service holders, in turn, preferred special leave petitions before the Apex Court, which dismissed the same by confirming the judgments rendered in the appeals before this Court. This judgment of the Apex Court is reported in ***Subramania Gurukkal Vs. Patteswaraswami Devasthanam [reported in 1993 Supp. (4) SCC 519]*** thereby the temple was treated to be the absolute owner of the subject properties.

11. The properties in question were Inam lands, which were given to maintain certain services to the idol. Since the service holders failed to render service, the Inam reverted back to the temple in the year 2002 after the judgment of the Apex Court. There is absolutely no material to show that any of the petitioners is a tenant under the



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temple. Rather, no lease subsists in the manner known to law. The alleged lease granted by the Inamdhar will not bind the temple. Under Section 34 of the Act, there is a restriction in dealing with the subject properties belonging to any religious institution and any transaction that takes place without the sanction of the Commissioner of the Department will be null and void in the eye of law. The leasehold right that has been claimed by the petitioners, admittedly, does not have the sanction of the Commissioner of the Department. Hence, the Department has correctly determined the status of the petitioners as encroachers in the eye of law.

12. The sporadic receipt of some payments by some officers belonging to the Department will not sanctify the possession of the petitioners and it will not bind the temple unless such payments are received after the temple enters into a lease with the petitioners and the same is sanctioned by the Commissioner of the Department.

13. Some of the petitioners are claiming to be the statutory tenants on the ground that their tenancy had been recorded as a cultivating tenant under the Tamil Nadu Agricultural Lands Record of



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Tenancy Rights Act, 1969. This claim made by some of the petitioners is unsustainable since they are not the statutory tenants under the temple. Rather, they were the statutory tenants only under the service holders.

14. The learned counsel appearing on behalf of the petitioners relied upon the judgment of a Division Bench of this Court in the case of **V.Angu Vs. Commissioner, HR&CE Department [reported in 2016 (2) CWC 731]** and submitted that the subject properties will come under the purview of the Tamil Nadu Public Trusts (Regulation of Administration of Agricultural Lands) Act, 1961. In view of the same, it was contended that eviction proceedings cannot be initiated under the Act.

15. This contention made by the learned counsel appearing on behalf of the petitioners is not sustainable. In the judgment that was cited before this Court, it can be seen that the petitioner therein was a direct tenant under the temple and his name was recorded as a tenant under the Tamil Nadu Public Trusts (Regulation of Administration of Agricultural Lands) Act, 1961. Under such circumstances, the right of



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the tenant therein was traced to the Tamil Nadu Public Trusts (Regulation of Administration of Agricultural Lands) Act, 1961. In the present case, the petitioners are neither the lessees under the temple nor the lease had been approved by the Commissioner and the record of tenancy was registered showing the service holder as the landlord. In such circumstances, the judgment relied upon by the learned counsel appearing on behalf of the petitioners will not come to the aid of the petitioners.

16. The continued possession of the petitioners for a long period of time by itself will not vest any right to the petitioners. The status of the petitioners, in the eye of law, can only be considered as encroachers qua the temple. Hence, the Department had rightly initiated proceedings under Section 78 of the Act and all the three Authorities below have assigned sufficient reasons after dealing with the issues raised by the petitioners. This Court does not find any illegality or infirmity in those findings.

17. The learned counsel appearing on behalf of the petitioners took a stand that similarly placed persons, who were also tenants



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under the service holders and against whom, proceedings were initiated under Section 78 of the Act, were benefited by the order dated 22.9.2011 passed by the Commissioner of the HR & CE Department and the eviction ordered against those persons was set aside and they were recognized as the tenants under the temple. It was further contended that the petitioners must also be given the same treatment.

18. The order of the Commissioner of the HR & CE Department that was relied upon will not apply to the case of the petitioners herein. That was a case where the lands were sold by the service holders to the petitioners therein and they were claiming their right as the owners of the lands. At one stage, they reached an understanding with the Temple Authorities wherein they agreed to accept the title of the temple and continued to possess and enjoy the lands in the capacity as a lessee under the temple. Under such circumstances, the Commissioner held that those petitioners should not have been treated as encroachers. Hence, this order will not come to the aid of the petitioners herein.



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19. In so far as the petitioners in W.P.Nos.16028 and 16029 of 2023 are concerned, it was argued that they were not given an opportunity as the notice was served on the said Mr.Dhanabal.

20. The attitude of the petitioners in W.P.Nos.16028 and 16029 of 2023 defies normal human conduct. The said Mr.Dhanabal is none other than the brother of these petitioners. After the order was passed by the Joint Commissioner under Section 78 of the Act, curiously a revision was filed by the said Mr.Dhanabal before the Commissioner and the second revision was also filed before the Government by the said Mr.Dhanabal. It is quite apparent that the said Mr.Dhanabal was the alter ego of these petitioners, who were well aware about the proceedings initiated for eviction and they chose to adopt this strategy as if notice was not issued in their names. This conduct on the part of both the petitioners in W.P.Nos.16028 and 16029 of 2023 is far from satisfactory and they have adopted this ploy only to defeat the rights of the temple.

21. It was brought to the notice of this Court that the Authorities have already taken possession of the lands and the photographs with



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regard to that were filed before this Court. The Authorities are bound to bring the properties in question for auction and the lease is going to be granted in favour of the highest bidders with the sanction of the Commissioner, HR & CE Department and a fair rent will be fixed. By adopting this process, proper income will be augmented for the temple. There is no bar in law to auction the agricultural lands as was attempted to be projected by the learned counsel appearing on behalf of the petitioners. In fact, only by bringing the lands to public auction, maximum income can be secured for the temple. If the petitioners are so desirous, it is left open to them to participate in the auction by submitting their bids. Ultimately if they are the highest bidders, they can take possession of the lands and will be recognized as lessees under the temple.

22. The learned counsel appearing on behalf of the petitioners made an emotional plea as if the petitioners put their hard labour and developed the lands where there are grown trees.

23. Putting hard labour by itself does not give the petitioners the status of a cultivating tenant since they are not the lessees under the



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temple. Therefore, the emotion expressed by the learned counsel appearing on behalf of the petitioners does not really help the case of the petitioners.

24. In the light of the above discussions, this Court does not find any merit in these writ petitions.

25. Accordingly, the writ petitions are dismissed. No costs. Consequently, the connected WMPs are also dismissed.

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Neutral Citation : Yes

Index : Yes (or) No

To

1.The Secretary to Government of Tamil Nadu, Department of Tourism Culture and Religious Endowments (RE 5 -2), Secretariate, Chennai.

2.The Commissioner, Tamil Nadu Hindu Religious and Charitable Endowment Board, Chennai.

3.The Joint Commissioner, Tamil Nadu Hindu Religious and Charitable Endowment Board, Coimbatore-18.

4.The Assistant Commissioner/Executive Officer, Arulmigu Patteswarar Swami Thirukovil, Perur Village, Coimbatore Taluk and District.

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