



W.P.No.637 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 11.1.2023

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THE HONOURABLE Mr.JUSTICE N.SATHISH KUMAR

W.P.No.637 of 2023
and W.M.P.No.575 of 2023

1 K.Kanagaraj ... Petitioner

Vs.

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

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

3 The Inspector,
Hindu Religious and Charitable Endowments
Department, Mettupalayam.

4 Executive Officer,
Pillathi Arulmighu Periya Mariyamman
Thirukoil, Pettathi Village, Karamadai
Taluk, Coimbatore District.

... Respondents

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, to quash the Auction notice dated 1.1.2023 issued by the 3rd respondent and consequently direct the respondents to not to conduct any auction from the petitioners property i.e.Survey No.515 situated at pettathi Village, Karamadai Taluk, Coimbatore District to the extent of 17 acres 55 cents except due process of law.



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W.P.No.637 of 2023

For Petitioner : Mr.R.Venkatesh
For Respondents 1 to 3 : Mr.N.R.R.Arun Natarajan
Spl. G.P.

ORDER

The prayer in the writ petition is against Auction notice dated 1.1.2023 issued by the 3rd respondent and consequently direct the respondents not to conduct auction over the property in Survey No.515 situate at Pettathi Village, Karamadai Taluk, Coimbatore District.

2. The case of the petitioner is that his ancestors are in possession and enjoyed the property and thereafter, the petitioner is continuing possession of the said property. The revenue records are also stands in their names. All of sudden, the third respondent has affixed the impugned auction notice in the temple board, calling for tender for cultivation in the said land. The petitioner has made representation to the respondents on 26.11.2022 and the same is still pending and no order has been passed. Therefore, the petitioner has filed the instant writ petition before this Court.

3. According to the learned counsel appearing for the petitioner, the respondents have no rights over the said property and the petitioner apprehends that they will be evicted from the said property without following due process of law. The property sought to be leased out by the respondent is a private property



W.P.No.637 of 2023

and therefore, the impugned auction notice dated 1.1.2023, cannot be sustained in the eye of law. It is also contended by the learned counsel appearing for the petitioner that the procedure adopted by the executive authorities in conducting auction is not in accordance with law. The Executive Officer has no power to issue such auction notice and also Rules were not followed. Therefore, the impugned auction notice is liable to be set aside.

4. The learned Special Government Pleader appearing for the respondents would submit that revenue records as well as the register maintained by the H.R.& C.E. Department also indicate that the said property is a temple land and they have also followed The Religious Institutions (Lease of Immovable Property) Rules, 1963 before initiating auction proceedings. As per the aforesaid Rules, the Executive Officer has every power to conduct auction.

5. At this stage, the learned counsel appearing for the petitioner submits that if fresh auction is being conducted as per Rules, the petitioner has no grievance.

6. Though writ petition is filed as if the petitioner is the owner of the property, the contention raised by the learned counsel appearing for the petitioner is only with regard to procedure adopted by the executive Authority in conducting auction. It is relevant to note that the very document relied upon by



W.P.No.637 of 2023

the petitioner viz., patta itself, the property shown as temple land. Merely on the basis that a person was in possession of the property, cannot claim a right or title over the property. However, this Court is not inclined to go into the rights or title over the said property in the writ petition.

7. Therefore, now, the questions raised before this Court are whether the Executive officer has power to conduct auction and whether the Executive officer has followed the relevant Rules in the auction proceedings.

8. It is relevant to extract Rule 2, 4 and 6 of The Religious Institutions (Lease of Immovable Property) Rules, 1963 which reads as follows:

*"2. **Lease by public auction:-** Lease of immovable property and rights belonging to a religious institution shall be made by public auction. The auction shall ordinarily be conducted in the place in which the property is situate or the rights exist:*

Provided that the Joint Commissioner or the Deputy Commissioner, as the case may be, may, either suo motu or on an application made to him by the executive authority, permit the holding of such an auction at a place within the district, other than the one in which the property is situate if he is satisfied that it will not be detrimental to securing a property bid.

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*4. **Auction Notice:** - (1) The notice of auction of all leases shall be published, atleast 15 days before the date fixed for*



W.P.No.637 of 2023

auction, by afixture-

(a) on the notice board or in the case of a specific endowment, on the notice board or front door of the religious institution to which the specific endowment is attached;

(b) on the notice board of the office of the Municipal Council or the Corporation of Chennai or the Panchayat or the Panchayat Union or the village chavadi in the places where the properties are situate; and

(c) on the notice board of the office of the Assistant Commissioner having jurisdiction over the area in which the properties are situate.

(2) The executive authority shall also give publicity to the notice in the language of the locality, by circulating or distributing copies thereof or announcing its content by beat of tom tom in the area or by publishing it in a newspaper in the language of the locality having circulation in the area.

(3) Where the auction is conducted by the Executive Officer, a copy of the auction notice shall also be sent to the trustees atleast 3 days before the date fixed for auction.

.....

6. Authority to conduct the auction:- (1) the auction shall be conducted by -

(a) the executive officer ordinarily; or

(b) when there is no executive officer -

(i) by a person duly authorised by a hereditary trustee; or

(ii) by a person duly authorised by a hereditary trustee; or

(iii) by any other officer specially authorised by the Assistant Commissioner or the Joint/Deputy Commissioner, as the case may be.”



W.P.No.637 of 2023

WEB COPY

9. Rule 6 of the aforesaid Rules empowers the Executive officer to conduct auction. *As per Sub Clause (a) of Rule 6, power is vested with Executive officer to conduct auction.* Therefore, the contention of the petitioner that the Executive officer has no such power to conduct auction cannot be countenanced.

10. The next question is as to whether the Executive officer has followed the relevant Rules in the auction proceedings; *Rule 4 deals with auction notice which shall be published, atleast 15 days before the date fixed for auction, by affixture on the notice board and shall also give publicity to the notice in the language of the locality, by circulating or distributing copies thereof or announcing its content by beat of tom tom tom in the area or by publishing it in a newspaper in the language of the locality having circulation in the area.* Whereas in the given case, impugned auction notice dated 11.1.2023 affixed in the notice board on 11.1.2023 for the auction scheduled to be held on 18.1.2023. Therefore, the impugned notice clearly indicate that Rule 4 of The Religious Institutions (Lease of Immovable Property) Rules, 1963 is not followed. Therefore, impugned notice dated 11.1.2023 is liable to be set aside.

11. At this stage, the learned Special Government Pleader appearing for the respondents submits that the respondents are ready to withdraw the



W.P.No.637 of 2023

impugned auction notice and issue fresh auction notice by following the Rules.

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12. Such view of the matter, the impugned auction notice dated 11.1.2023 is set aside. However, liberty is granted to the respondents to issue fresh auction notice by following the Rules. Insofar as the rights of ownership is concerned, this Court is not inclined to go into the rights or title over the subject matter of the property. It is well open to the petitioner to establish their rights or title before the appropriate court by way of civil suit, not by way of writ petition. However, the same will not deter the authorities to conduct auction as per Rules.

With the above observations, writ petition stands dismissed. No costs. Connected miscellaneous petition is closed.

11.1.2023

Speaking/Non Speaking order

Neutral citation: Yes/No

Index: Yes/No

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To

1 The Commissioner

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2 The Joint Commissioner,

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3 The Inspector,

Hindu Religious and Charitable Endowments Department, Mettupalayam.

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Pillathi Arulmighu Periya Mariyamman Thirukoil, Pettathi Village, Karamadai Taluk, Coimbatore District.



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W.P.No.637 of 2023

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W.P.No.637 of 2023

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petitioner questioning only the auction procedure adopted by the respondent. It is relevant to refer to The Religious Institutions (Lease of Immovable Property) Rules, 1963. The proviso to the aforesaid Rules deals with the manner in which the temple properties should be Rule 2 of the said Rules makes it clear that lease of immovable property and rights belonging to a religious institution shall be made by public auction. The auction shall ordinarily be conducted in the place in which the property is situate or the rights exist: The proviso also makes it clear that the Joint Commissioner or the Deputy Commissioner shall hold an auction at a place within the district, other than the one in which the property is situate if he is satisfied that it will not be detrimental to securing a proper bid. Rule 4 deals with auction notice. Sub Clause 2 of Rule 4 makes it mandatory on the part of executing authorities shall also give publicity to the notice in the language of the locality, by circulating or distributing copies thereof or announcing its content by beat of tom tom in the area or by publishing it in a newspaper in the language of the locality having circulation in the area. Sub Clause 3 of Rule 4 says, Where the auction is conducted by the Executive Officer, a copy of the auction notice shall also be sent to the trustees atleast 3 days before the date fixed for auction. Rule 5 deals with the Particulars to be furnished in the auction notice.