



W.P. No. 32699 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2023

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 32699 of 2023

A. Radhakrishnan

... Petitioner

-VS-

1. The Secretary to the Government,
Tourism, Culture and Endowments Department,
Secretariat, Chennai 600 009.
2. The Commissioner,
Hindu Religious and Charitable Endowments Department,
119, Nungambakkam High Road,
Chennai 600 034.
3. The District Collector,
Salem Town 636 001.
4. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Salem 636 001.
5. The Chairman Board of Trustees,
Arulmigu Suganaveshwarar Swamy Temple,
Salem Town 636 001.
6. The Assistant Commissioner cum Executive Officer,
Arulmigu Suganaveshwarar Swamy Temple,
Salem Town 636 001.
7. The Proprietor,
Sugaveneswara Motor Service,
12A, Bazaar Street,
Opp to Town Police Station,
Salem 636 001.

... Respondents



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Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the respondents 1 to 6 to secure the amount from the 7th respondent to the tune of Rs.1,09,41,824/- along with interest and restore the same in favour of 6th respondent temple by considering petitioner representations dated 14.05.2019 and 13.07.2023 and pass further orders.

For Petitioner : Mr. R.Marudhachalamurthy

For Respondents : Mr. U.Baranidharan,
Additional Government Pleader
(for R1 and R3)

Mr. K. Karthikeyan,
Government Advocate
(for R2 and R4 to R6)

Mr. D. Shivakumaran (for R7)

ORDER

Heard Mr. R.Marudhachalamurthy, Learned Counsel for the Petitioner, Mr. U.Baranidharan, Learned Additional Government Pleader, appearing for the First and Third Respondents, Mr. K.Karthikeyan, Learned Government Advocate appearing for the Second and Fourth to Sixth Respondents and Mr. D.Shivakumaran, Learned Counsel appearing for the Seventh Respondent, and perused the materials placed on record, apart from the pleadings of the parties.



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2. It is the case of the Petitioner that the Seventh Respondent owes rental arrears and damages for use and occupation of the property belonging to the Temple of the Fifth and Sixth Respondents, and he had made representations dated 14.05.2019 and 13.07.2023 to secure the sum of Rs. 1,09,41,824/- towards those dues, but as it did not evoke any response, it has necessitated the filing of this Writ Petition.

3. In furtherance to the order dated 22.11.2023 passed by this Court, the Sixth Respondent has filed Status Report dated 11.12.2023 in which it has been stated as follows:-

“12. It is submitted that after the Corona curfew was withdrawn, an application was filed under Sec 79 © of TNHRCE Act, 22/1959 before the Joint Commissioner, HR & CE Salem, requesting to attach the movable asset – a bus, the property of the encroacher institution for the rental arrears amounting to Rs.1,09,41,824/- till 30.06.2020. It is submitted that following which a showcause notice R.3012/2021/B1 dated 18.08.2021 has been issued by the Joint Commissioner, Salem. It is submitted that due to non-representation of the encroacher, the Joint Commissioner vide M.P.85/2021 dated 13.04.2022 appointed the Assistant Commissioner, Salem as the Recovery Officer and ordered



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him to liquidate the bus in lieu of the rental arrears Rs.1,09,41,824/- due to the temple.

It is submitted that the Assistant Commissioner vide Notice Rc.2682/2022/C2 dated 25.05.2022 has issued a notice to Mr.S.Alagarasan to pay the rental arrears due to the temple before 09.06.2022 but there was not reply nor the arrears were paid. Such being the case, the passenger bus TN30J1690 belonging to Sugavaneswara Motor Service was seized on 03.02.2023 by the Assistant Commissioner/Recovery Officer and the bus is in the temple possession as on date. Proposal has been submitted to the Regional Transport Authority, West on 27.03.2023 to change the permit in the name of the temple.

It is submitted that letters have been written on 20.03.2021, 14.07.2023, 09.10.2023, 22.11.2023 and 04.12.2023 to registration department, Salem Municipal Corporation and Regional Transport Authority and Revenue Tahsildar to trace the immovable assets of the directors of the Sugavaneswara Motor Service. It is submitted on perusal of the Encumbrance Certificates, FMB and Survey Map received from the registration department, it is found that Mr.Alagarasan holds immovable asset in his name and on obtaining the valid title document, a fresh petition under Sec. 79(c) of the TNHRCE Act 22/1959, is to be filed before the Joint Commissioner, to liquidate his immovable asset in



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lieu of the rental arrears. It is submitted that the registration officials have been requested not to entertain any sale deeds concerning the said persons.

13. It is submitted a detailed complaint dated 23.11.2023 has been submitted to the Commissioner of Police, Salem City, on 25.11.2023 to initiate criminal action against the defaulters and the same is under enquiry. It is submitted that a public notice has been published in the Dhinanthanthi daily of Salem edition dated 29.11.2023 regarding the above issues and the public have been requested not to indulge in any transactions with Mr.S.Alagarasan, Mrs.Padmini Alagarasan, Mr.S.Thillainathan, the directors of Sugavaneswara Motor Service, Salem.

14. It is submitted that Sugavaneswara Motor Service Ltd., represented by Alagarasan have filed an O.S.539/2021 in District Munsif Court, Salem, praying permanent injunction restraining the defendants in pursuance of the show cause notice Rc.3012/2021/A1 dated 18.08.2021 issued by the Joint Commissioner, HR & CE department, Salem and the same has been posted on 05.01.2024.

15. It is submitted that all the above actions have been taken by the temple administration so far, and it is submitted that appropriate follow up action is to be taken



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abiding by the rules of the TNHRCE Act 22/1959 to collect the rental arrears due to the temple and it is submitted that needy action has been taken by this respondent with respect to the petitioners representations regarding the above case.”

In view of the aforesaid action taken, nothing remains for further consideration in the Writ Petition, but if the Petitioner still has any grievance to be redressed in the matter, he is not precluded from working out his remedies before the proper forum in the manner recognized by law.

In the result, the Writ Petition is disposed with the aforesaid observations.

No costs.

14.12.2023

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 31.01.2024.

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To

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P.D. AUDIKESAVALU, J.

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