



W.P(MD)No.3300 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.02.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.3300 of 2023

and

W.M.P(MD)No.3051 of 2023

C.Subramanian

... Petitioner

Vs

- 1.The District Collector,
Office of the District Collectorate,
Thirunelveli District.
- 2.The District Revenue Officer,
Office of the District Revenue Officer,
Thirunelveli District.
- 3.The Special Deputy Collector,
Office of Revenue Court,
Thirunelveli District.
- 4.The Joint Commissioner /
Executive Officer,
Office of the Joint Commissioner,
Arulmigu Subramaniya Swamy Thirukovil,
Thiruchendur,
Thoothukudi District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned Order in P.T.No. 213/2015 dated 18.11.2015 on the



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file of the third respondent and subsequent Impugned Proceeding in Na.Ka.No. 1896/2020/E5 dated 08.12.2022 dated 26.12.2022 on the file of the fourth respondent and quash the same as illegal and consequently direct the respondents to grant exemption for 4 pasalis due to crop failure as per the G.Os in G.O.Nos. 479, 476, 76 and 48 by Revenue Department, and also to direct the respondents to reduce the repayment amount from Rs. 9.28 per liter to Rs. 6 per liter. As per the orders passed in the similar cases and also consider the representation of the petitioner dated 13.02.2023 for allowing him to continue with the lease in land in Survey Number 120/2 situated at Cheranmahadevi belongs to Arul Miku Subramania Swami Temple within the time stipulated by this Court.

For Petitioner : Mr.R.Rajesh Kumar

For Respondents : Mr.M.Siddharthan
Additional Government Pleader
for R1 to R.3

Mr.Muthugeethayan
Standing Counsel for R.4

ORDER

Heard the learned counsel on either side.

2.It is not in dispute that the petitioner's father late Pandithevar @ Chithambarathevar was inducted as lessee in respect of the petition mentioned land. The lands belonged to the fourth respondent temple. Proceedings were initiated and order dated 18.11.2015 was passed calling upon the petitioner's father and siblings to pay a sum of Rs.4,31,269/- within three years. It was



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further directed that in the event of failure to pay, they will be evicted. The said order was not put to challenge immediately. Subsequently, proceedings were initiated for enforcing the said order. The writ petitioner remitted a sum of Rs.1,28,000 on 18.08.2021. However, that represented only a portion of the liability. The petitioner did not pay the balance amount.

3.In these circumstances, eviction order came to be passed on 29.11.2023. The petitioner is said to have been evicted. Of course, the petitioner would claim that he continues to be in possession. The learned Standing Counsel appearing for the fourth respondent had produced a copy of the auction notice dated 03.01.2023 for auctioning the lease rights in respect of the petition mentioned lands.

4.The learned counsel appearing for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned orders and grant relief as prayed for. His primary ground of attack is that the authority has not applied the same yardstick as applied in the case of similarly placed lessees. He also would claim that even though the petitioner was entitled to remission for certain agricultural seasons, the authority failed to take the same into account.



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The learned counsel appearing for the petitioner states that the petitioner was ready to pay the balance amount that may be properly and correctly fixed by the authority.

5.I am not persuaded by the submissions of the learned counsel for the petitioner. As rightly pointed out by the learned Standing Counsel for the temple, the order dated 18.11.2015 categorically states that from the fasli year 1397 to fasli year 1423, the petitioner's father and siblings have failed to make any payment. I repeatedly called upon the learned counsel for the petitioner to point out from the pleadings if this averment has been attacked as factually incorrect. The affidavit filed in support of the writ petition is completely silent in this regard. I therefore go by the averment in the impugned order dated 18.11.2015 that the petitioner's father and siblings did not pay a single pie towards lease rent since fasli year 1397.

6.The petitioner appears to have stepped in for the first time only during the year 2021. It is true that the petitioner has remitted a sum of Rs.1,29,000/- on 08.08.2021. I am more than satisfied that the petitioner's family has been a rank defaulter. The writ jurisdiction of this Court will not be exercised for such persons. That apart, it is firmly asserted by the respondents that the petitioner's



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family has been evicted on 20.11.2022 itself. That appears to be more probable in view of the production of auction notice issued on 28.01.2023. More than anything, if the petitioner's family was really aggrieved, they would have challenged the order dated 18.11.2015 immediately. The fact that the challenge is mounted after seven years indicates complete lack of *bona fides*. I do not find any ground to interfere. The writ petition is dismissed.

7.The learned counsel appearing for the petitioner states that the petitioner has already planted crops and that they are ready for harvesting. Even while endorsing the stand of the respondents that the petitioner's family has been evicted on 20.11.2022 itself, considering the special facts and circumstances, I direct the respondents to keep away till 01.03.2023. I grant this extraordinary relief since the petitioner's counsel states that the petitioner accepts the order passed by this Court and that they would not lay any claim on possession after 01.03.2023. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

20.02.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
MGA



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G.R.SWAMINATHAN, J.

MGA

To

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