



W.P(MD)No.3272 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.03.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.3272 of 2023

and

W.M.P.(MD)No.3029 of 2023

M/s.Shaptharishi Research & Medical Foundation,
Rep. By its President cum Managing Trustee,
K.Sundarrajan,
S/o.Kandasamy,
209, North Street,
Paramathi Velur Post,
Namakkal District.

... Petitioner

Vs.

1.The District Collector,
Karur District,
Karur.

2.The Tenancy Record Officer-cum-Tahsildar,
Kulithalai,
Karur District.

3.Roshan Manavalan

4.Thiru.Guru Vidyalaya Peedam,
Rep. By its Trustee,
MR.N.S.Rajagopalan,
No.5, Rani Chinnammal Street,
Eidams Road,
Alwarpet,
Chennai.



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5. Thiru. Guru Vidyalaya Peedam,
Rep. By its Joint Trustee,
Mrs. Dhanalakshmi,
W/o. Sivakumar
No.29, 8th Main Road,
Srinivasa Nagar,
Puthur,
Trichy District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order passed by the second respondent vide Na.Ka.A1/5703/2022, dated 25.01.2023 and quash the same as illegal and violation of principal of natural justice and remit back to the second respondent for fresh consideration along with T.R.No.1 of 2010 filed by the petitioner's Trust pending before the second respondent in accordance with law and dispose of the same within a time frame fixed by this Court.

For Petitioner : Mr.I.Velpradeep

For Respondents : Mr.M.Siddharthan
Additional Government Pleader for R1 & R2

: Mr.V.Meenakshi Sundaram
for Mr.R.Murugan for R4 & R5

: Mr.P.Sivasankaran for R3

ORDER

Heard the learned counsel on either side.



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2. The impugned order dated 25.01.2023 passed by the Tenancy Record Officer cum Tahsildar, Kulithalai is under challenge in this writ petition.

3. The petition mentioned lands belong to the Trust (Sri.Guru Vidhya Peedam). The Trust represented by its trustees N.S.Rajagopalan and Dhana Lakshmi executed a registered lease deed in favour of Roshan Manavalan. Based on the same, Roshan Manavalan applied to the Tenancy Record Officer and got his name entered in respect of the petition mentioned land. The question that arises for consideration is whether such an order could have been passed by the second respondent.

3. It is seen that one of the trustees namely Thiru.N.S.Rajagopalan executed a lease deed dated 16.06.2005 in favour of the petitioner. It was also duly registered. This was questioned by the other trustee namely Dhana Lakshmi. She filed O.S.No.249 of 2006 on the file of the District Munsif Court, Kulithalai. N.S.Rajagopalan as well as the petitioner foundation were shown as defendants in the suit. The suit was dismissed on 02.01.2018. A specific finding was given by the learned trial Munsif that the petitioner herein is in possession of the petition mentioned suit property which is nothing



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but the petition mentioned land. Questioning the same, the plaintiff has filed A.S.No.13 of 2018 before the Sub Court, Kulithalai. During the pendency of the first appeal proceedings, Dhana Lakshmi and Rajagopalan have joined hands. That is how, they came to execute a fresh lease deed in favour of Roshan Manavalan. While considering the application of Roshan Manavalan, the Tenancy Record Officer had put the petitioner on notice. The petitioner had also earlier submitted an application for recording their name as tenant. While the petitioner's application was rejected, the application of the third respondent was allowed.

4. In my view, the second respondent should have awaited the outcome of A.S.No.13 of 2018 and thereafter, taken up the application filed by both the parties. This is for the simple reason that the trial Court had given a positive finding that the petitioner is in possession of the petition mentioned lands. The very purpose of recording tenancy is to recognise that tenant is in possession of the land and to protect the same. So long as the finding rendered by the trial Court in favour of the petitioner is holding the field, there is no meaning or purpose in entertaining the application for recording tenancy of any other person. It is also seen that the petitioner has also filed O.S.No.97 of 2017 on the file of the Sub Court, Kulithalai wherein the petitioner has sought the relief of permanent injunction.



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5. In this view of the matter, the order impugned in the writ petition is set aside. The Sub Court, Kulithalai is directed to dispose of A.S.No.13 of 2018 pending on its file on merits and in accordance with law within a period of four months. The learned Sub Judge, Kulithalai shall also dispose of O.S.No.97 of 2017 within a period of six months from the date of receipt of a copy of this order. After disposal of these two civil proceedings, the second respondent can take up the applications submitted by the petitioner and the third respondent can give them disposal on merits and in accordance with law. In other words, the applications already submitted by the petitioner as well as the third respondent will be kept alive on the file of the second respondent.

6. The Writ Petition is allowed on these terms. No costs. Consequently, connected miscellaneous petition is closed.

01.03.2023

Index : Yes / No

Internet : Yes/ No

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To

1.The District Collector,
Karur District,
Karur.

2.The Tenancy Record Officer-cum-Tahsildar,
Kulithalai,
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G.R.SWAMINATHAN, J.

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