



W.P. (MD) No.12261 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.02.2023

CORAM

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

**W.P. (MD) No. 12261 of 2022
and W.M.P. (MD) Nos. 8709 and 8710 of 2022**

M.Ramkumar

... Petitioner

Vs.

**1. The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Courtallam,
Tenkasi District.**

**2. The Executive Officer,
Arulmigu Courtallam Nathar Swamy,
Tenkasi District.**

... Respondents

Petition filed under Article 226 of the Constitution of India, for issue of Writ of Certiorarified Mandamus, to call for the records of the impugned auction notice in Na.Ka.No.183/2022 dated 01.06.2022 on the file of the First Respondent and quash the same.



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For Petitioner : Mr. G.Prabhu Rajadurai
For Respondent No.1 : Mr. T.Villavankothai
Additional Government Pleader
For Respondent No.2 : Mr. P.Thiyagarajan

ORDER

Heard Mr. G.Prabhu Rajadurai, Learned Counsel for the Petitioner, Mr. T.Villavankothai, Learned Additional Government Pleader appearing for the First Respondent and Mr. P.Thiyagarajan, Learned Counsel for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner claims that his father, viz., P.Murugesu Nadar was in occupation as cultivating tenant of 1.37 acres of Nanja land out of 4.38 acres in S. Nos. 1671 and 1688 in Keelapavoor Part I, Part II Village, Alangulam Taluk, Tenkasi District from the year 2007 onwards and after his demise in the year 2017, the Petitioner and his mother have continued to be in occupation of that property as cultivating tenants, but without evicting them following due process



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of law, the First Respondent has issued notice in Na. Ka. No. 183/2022 dated 01.06.2022 for conducting auction for lease of that property, which is challenged in this Writ Petition.

3. The Second Respondent has filed Counter-Affidavit dated 23.06.2022 disputing the said claim of the Petitioner as totally unbelievable by pointing out that the Petitioner had himself participated in the earlier auction for the whole extent of 4.38 acres of the property, which creates an estoppel against him from asserting any right as cultivating tenant for any part of that property. Further, the Petitioner has not produced any material to show that his name has been recorded as cultivating tenant in the relevant registers maintained under the Tamil Nadu Cultivating Tenants Protection Act, 1955.

4. In view of the aforesaid contentions of the Respondents, which deserves acceptance, it is not possible to countenance the right of cultivating tenant sought to be made by the Petitioner, in respect of the property in the impugned notice.

In fine, the Writ Petition, which is devoid of merits, is dismissed.



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Consequently, the connected Miscellaneous Petition is closed. No costs.

16.02.2023

Index : Yes/No

Internet : Yes /No

sj

Note : Issue copy of the order by 16.06.2023

To

1. The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Courtallam,
Tenkasi District.
2. The Executive Officer,
Arulmigu Courtallam Nathar Swamy,
Tenkasi District.



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P.D. AUDIKESAVALU, J.

sj

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