



WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.06.2023

CORAM

THE HONOURABLE Ms.JUSTICE P.T.ASHA

**W.P.(MD) No.5598 of 2018
and
S.A.(MD) Nos.602 to 604 of 2006
and
W.M.P.(MD) No.5500 of 2018
and
C.M.P.(MD) No.1632 of 2023**

W.P.(MD) No.5598 of 2018:-

S.Swaminathan

... Petitioner

/vs./

1.The Commissioner,
Hindu Religious and Charitable Endowment Department,
Uttamar Gandhi Salai,
Nungambakkam,
Chennai 600 034.

2.The Assistant Commissioner cum
Executive Officer,
Arulmighu Jambukeswarar
Ahilandeswari Thirukovil,
Thiruvanaikovil,
Tiruchirappalli District.

... Respondents



WEB COPY

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to the proceedings of the 2nd respondent herein in Na.Ka.No.266/1427/A7 dated 28/02/2018 in respect of property situate at No.80, 81, South Car Street, Thiruvanaikaval, Tiruchirappalli and quash the same.

For Petitioner : Mr.Sricharan Rangaraja Senior Counsel for
Mr.AN.Ramanathan

For R1 : Mr.P.Subbaraj
Special Government Pleader

For R2 : M/s.N.Krishnaveni Senior Counsel for
Mr.P.Thiagarajan

S.A.(MD) No.602 of 2006:-

1.M.Singaram Chettiar (died)

2.S.Swaminathan
(A2 has been impleaded vide
order dated 03.02.2023)

...Appellant

-VS-

1.The Settlement Officer,
Thanjavur, having office at
Thanjavur.



WEB COPY

2. The Assistant Settlement Officer,
Thanjavur, having office at
Thanjavur.
3. The Director Surveys and Settlement
Madras -5, having office at
Madras -5.
4. The Special Commissioner and Commissioner
of Land Administration, Madras -5,
having office at Madras -5.
5. The Idol of Arulmighu Jambukeswarar
Ahilandeswari Devasthanam
Thiruvanaikovil rep by its
Executive Officer.

... Respondents

Prayer:- Second Appeal is filed under Section 100 of C.P.C to set aside the judgement and decree dated 29.07.2005 in A.S.No.289 of 2004 on the file of the Principal District Judge, Tiruchirappalli confirming the judgment and decree dated 27.08.2003 in O.S.No.263 of 1998 on the file of the I Additional Subordinate Judge, Tiruchirappalli.

For Appellant	: Mr.Sricharan Rangaraja Senior Counsel for Mr.AN.Ramanathan
For R1 to R4	: Mr.D.Ghandiraj Special Government Pleader
For R5	: M/s.N.Krishnaveni Senior Counsel for Mr.P.Thiagarajan



WEB COPY

S.A.(MD) No.603 of 2006:-

1.M.Singaram Chettiar (died)

2.S.Swaminathan

*(A2 has been impleaded vide
order dated 03.02.2023)*

...Appellant

-VS-

The Idol of Arulmighu Jambukeswarar
Ahilandeswari Devasthanam
Thiruvanaikovil rep by its
Executive Officer.

... Respondent

Prayer:- Second Appeal is filed under Section 100 of C.P.C to set aside the judgement and decree dated 29.07.2005 in A.S.No.298 of 2004 on the file of the Principal District Judge, Tiruchirappalli confirming the judgment and decree dated 27.08.2003 in O.S.No.106 of 1990 on the file of the I Additional Subordinate Judge, Tiruchirapalli.

For Appellant : Mr.Sricharan Rangaraja Senior Counsel for
Mr.AN.Ramanathan

For Respondent : M/s.N.Krishnaveni Senior Counsel for
Mr.P.Thiagarajan



S.A.(MD) No.604 of 2006:-

1.M.Singaram Chettiar (died)

2.S.Swaminathan

*(A2 has been impleaded vide
order dated 03.02.2023)*

...Appellant

-VS-

The Idol of Arulmighu Jambukeswarar
Ahilandeswari Devasthanam
Thiruvanaikovil rep by its
Executive Officer.

... Respondent

Prayer:- Second Appeal is filed under Section 100 of C.P.C to set aside the judgement and decree dated 29.07.2005 in A.S.No.10 of 2004 and cross objection on the file of the Principal District Judge, Tiruchirappalli reversing the judgment and decree dated 27.08.2003 in O.S.No.19 of 1987 on the file of the I Additional Subordinate Judge, Tiruchirappalli.

For Appellant : Mr.Sricharan Rangaraja Senior Counsel for
Mr.AN.Ramanathan

For Respondent : M/s.N.Krishnaveni Senior Counsel for
Mr.P.Thiagarajan

COMMON ORDER

W.P.(MD) No.5598 of 2018 is filed for the issue of a Writ of Certiorari calling for the records relating to the proceedings of the second respondent in



WEB COPY

Na.Ka.No.266/1427/A7 dated 28/02/2018 in respect of the property situate at No. 80, 81, South Car Street, Thiruvanaikaval, Tiruchirappalli and quashing the same.

2.S.A.(MD) No.602 of 2006 has been filed challenging the judgement and decree dated 29.07.2005 in A.S.No.289 of 2004 on the file of the learned Principal District Judge, Tiruchirappalli confirming the judgment and decree dated 27.08.2003 in O.S.No.263 of 1998 on the file of the learned I Additional Subordinate Judge, Tiruchirapalli.

3.S.A.(MD) No.603 of 2006 has been filed challenging the judgement and decree dated 29.07.2005 in A.S.No.298 of 2004 on the file of the learned Principal District Judge, Tiruchirappalli confirming the judgment and decree dated 27.08.2003 in O.S.No.106 of 1990 on the file of the learned I Additional Subordinate Judge, Tiruchirapalli.

4.S.A.(MD) No.604 of 2006 has been filed challenging the judgement and decree dated 29.07.2005 in A.S.No.10 of 2004 and cross objection on the file of the learned Principal District Judge, Tiruchirappalli reversing the judgment and



WEB COPY

decree dated 27.08.2003 in O.S.No.19 of 1987 on the file of the learned I Additional Subordinate Judge, Tiruchirapalli.

5.The subject matter of all these petitions revolves around the possession and occupation of the property bearing D.Nos.80 and 80/1 in T.S.No.1401/4 at South Car Street, Thiruvanaikaval by the original plaintiff, Singaram Chettiar from the year 1957 onwards. The writ petition has been filed by Singaram Chettiar's son and in the second appeals, he has been impleaded as a party after the death of his father.

6.The case of Singaram Chettiar was that the constructions in the property had been put up by him. The construction includes residential house and an oil mill. The land belonged to the respondent temple. In the year 1972, the respondent temple had threatened to evict Singaram Chettiar from the property if he did not agree to pay the rents to the temple and demanded that Singaram Chettiar should recognize the temple as the owner of the building. Under the threat of eviction, the said Singaram Chettiar had agreed to pay the rent at Rs.30/- per month which was increased to Rs.50/- per month in 1985 and on 01.06.1986,



WEB COPY

the rent was sought to be increased to Rs.250/- per month. Since the patta was wrongly granted in favour of the temple, Singaram Chettiar had approached the Settlement Tahsildar, Thanjavur challenging the grant of patta in favour of the temple. His representation was dismissed and further representations before the Director of Settlement and the Commissioner (Land Administration) were also dismissed.

7.Meanwhile, the respondent temple insisted on the payment of arrears of rent and had instituted the suits for recovery of possession against Singaram Chettiar in O.S.No.19 of 1987 and for recovery of arrears of rent in O.S.No.106 of 1990 on the file of the I Additional Sub Court, Tiruchirappalli. Singaram Chettiar in turn had filed a suit O.S.No.263 of 1998 on the file of the Sub Court, Tiruchirappalli for declaration that the patta in respect of the property which was granted in favour of the temple was null and void, for declaring him as the owner of the suit property and for permanent injunction. All the three suits were taken up for joint trial and by a common judgment and decree dated 27.08.2003, O.S.No. 19 of 1987 filed for recovery of possession was dismissed on the ground that proper notice under the Transfer of Property Act had not been issued, though title



WEB COPY

was found in favour of the temple. The suit for recovery of arrears of rent was decreed and the suit filed by Singaram Chettiar for declaration and injunction was dismissed.

8. Aggrieved over the dismissal of the suit for recovery of possession, the temple had preferred an appeal in A.S.No.10 of 2004 and against the other two judgments, Singaram Chettiar had filed A.S.No.298 of 2004 (O.S.No.106 of 1990) and A.S.No.289 of 2004 (O.S.No.263 of 1998). Cross objections were also filed by Singaram Chettiar in A.S.No.10 of 2004. The appeals were taken up for hearing together and the appeal filed by the temple was allowed and the appeals and cross-objections filed by Singaram Chettiar were dismissed. It is these orders that are the subject matter of challenge in the above second appeals.

9. While so, when all these proceedings were pending, the second respondent had issued the impugned notice dated 28.02.2018 in terms of W.P. (MD) Nos.14428 and 16833 of 2017 dated 12.02.2018 stating that in order to occupy the temple property, the arrears of rent payable up to 28.02.2018 had to be paid within a period of four weeks, failing which steps will be taken to evict the



WEB COPY

petitioner under the Tamil Nadu Hindu Religious & Charitable Endowments Act.

Challenging this notice, W.P.(MD) No.5598 of 2018 has been filed.

10. When the matter had come up on 21.06.2023, a proposal for settlement was put forward and the learned Senior Counsel appearing on behalf of the respondent temple had sought time to revert. Ultimately, the petitioner/appellant has filed an affidavit signed today, wherein in paragraph No.6, the following undertaking has been given.

“6. I further submit that the above said second appeals and writ petitions came up for final hearing on 1.06.2023 and to find amicable solutions to the protracted litigation without prejudice to my rights and contentions. I hereby undertake that I am willing to vacate the premises within a period of 10 months and I am ready to pay the entire arrears of rent as full and final settlement of Rs.31,72,880/- within a period of 30 months in 30 equal installments.”

11. The litigation has been festering since the year 1986 and nearly 26 years have gone in litigation. By this undertaking, the parties are bringing to an end over a three-decade saga of litigation. Therefore, the above writ petition as well as the second appeals are disposed of with the following directions:-



WEB COPY

a) The petitioner/appellant shall vacate the premises on or before 01.05.2024 and shall not stay a day beyond the said date.

b) The arrears of rent of a sum of Rs.31,72,880/- will be paid in 30 equated monthly installments of Rs.1,05,763/-on or before the 10th of every English Calendar month.

c) The first installment shall be paid on or before 10.07.2023.

It is made clear that if there is a default of even a month installment, then the respondent temple is entitled to execute the decree without request to this Court. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No

26.06.2023

mm

To

11/13



WEB COPY

- 1.The Commissioner,
Hindu Religious and Charitable Endowment Department,
Uttamar Gandhi Salai,
Nungambakkam,
Chennai 600 034.
- 2.The Settlement Officer,
Thanjavur, having office at
Thanjavur.
- 3.The Assistant Settlement Officer,
Thanjavur, having office at
Thanjavur.
- 4.The Director Surveys and Settlement
Madras -5, having office at
Madras -5.
- 5.The Special Commissioner and Commissioner
of Land Administration, Madras -5,
having office at Madras -5.
- 6.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



P.T.ASHA, J.

mm

**W.P.(MD) No.5598 of 2018
and
S.A.(MD) Nos.602 to 604 of 2006**

26.06.2023