



W.P.(MD)No.24263 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.24263 of 2023

Dr.S.Thirupathi Venkadasmy

... Petitioner

versus

1. The Commissioner,
Hindu Religious and Charitable
Endowments Department,
Chennai.
2. The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
Thoothukudi.
3. The Executive Officer,
Arulmigu Pooranadha Swamy Thirukovil,
Kovilpatti,
Thoothukudi.
4. The Chairman,
Board of Trustees,
Arulmigu Poornanadha Swamy Thirukovil,
Kovilpatti,
Thoothukudi.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India,



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seeking for the issuance of Writ of Mandamus, to direct the respondents to grant the lease of land on the western side of the petitioner's hospital to a breadth of about 6 feet to enjoy the same along with the strip of land which is the subject matter of the suit in O.S.No. 89 of 1992 on the file of the District Munsif Court, Kovilpatti, by considering the representation of the petitioner dated 27.12.2020.

For Petitioner : Mr.G.Prabhu Rajadurai
For R1 to R3 : Mr.P.Subba Raj,
Special Government Pleader
For R4 : Mr.V.R.Shanmuganathan

ORDER

The petitioner has filed this writ petition for a Mandamus, directing the respondents to grant him lease on the western side of the petitioner's hospital to a breath of 6 feet to enjoy the same along with the strip of land which is the subject matter of the suit in O.S.No.89 of 1992 on the file of the District Munsif Court, Kovilpatti, by considering his representation dated 27.12.2020.

2. The learned counsel appearing for the petitioner submits that adjacent to the petitioner's hospital, HR&CE Department is having a



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land to an extent of breath 26 feet x 250 feet. The petitioner has also succeeded in the suit and got 4 feet in the decree passed by the District Munsif Court, Kovilpatti in O.S.No.89 of 1992, dated 31.01.1996.

3. The learned counsel appearing for the petitioner submits that if the petitioner is given three more feet on the western side of his hospital by the HR&CE Department from the existing vacant land, he is prepared to pay double the amount of the lease amount on the adjacent property and he also undertakes to keep this 3 feet land as a common pathway.

4. The learned Special Government Pleader appearing for the respondents 1 to 3 and the learned Standing Counsel appearing for the 4th respondent submit that the properties of the Temple can be leased only by way of public auction and also after fixing the fair rent by the Committee, as per Rule 2 of the Religious Institutions (Lease of Immovable property) Rules 1963. The learned counsel further submit



that the Temple is also having a vast extent of land behind the subject property and this would be a pathway for the property which is situated behind the subject property and therefore, if three feet is allotted to the petitioner, then, the value of the property which is situated behind the subject property would be diminished. He further submits that the petitioner can very well participate in the auction, which is proposed to be conducted by the HR&CE Department on this property.

5. This Court considered the rival submissions and perused the materials available on record.

6. Rule 2 of the Religious Institutions (Lease of Immovable property) Rules 1963, provides for lease of immovable property belonging to the religious institution by public auction and the same is extracted as under:

2. Lease by public auction – Lease of immovable property and rights belonging to a religious institution shall be made by public auction. The auction shall,



ordinarily, be conducted in the place in which the property is situate or the rights exist:

Provided that the [Joint Commissioner or the Deputy Commissioner, - as the case may be], may, either suo motu or on an application made to him by the executive authority, permit the holding of such an auction at a place within the district, other than the one in which the property is situate if he is satisfied that it will not be detrimental to securing a proper bid.

Explanation – For purposes of these Rules, the term “executive authority” shall mean -

- (a) the Executive Officer, where there is one; or*
- (b) where there is no Executive Officer-*
 - (i) the trustee, if there is a single trustee; or*
 - (ii) the Chairman of the Board of the Trustees, if the number of trustees exceeds one.*

No transfer of lease of any property or right belonging to a religious institution shall be approved by the executive authority without the prior sanction of the Commissioner.

7. In view of the specific provision, this Court is not inclined to



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entertain this writ petition. However, the Commissioner of the HR&CE Department, Chennai, is having a power to lease a property otherwise than by public auction as per Rule 11 of the Religious Institutions (Lease of Immovable property) Rules 1963.

8. Therefore, this writ petition is disposed of with liberty to the petitioner to work out his remedy before the first respondent/the Commissioner, Hindu Religious and Charitable Endowments Department, Chennai, by submitting a representation for grant of lease. No costs.

30.10.2023

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NCC : Yes / No.
Index : Yes / No.
Internet : Yes / No.

To

1. The Commissioner,
Hindu Religious and Charitable
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Chennai.



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B.PUGALENDHI, J.

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