



W.P.(MD)No.24650 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 18.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.24650 of 2023

and

W.M.P.(MD)No.20848 of 2023

Sunrise Siru Muthaleetu Viyabarikal Nala Sangam,

Reg. No.19/2022

Represented by its Secretary

Tamilselvam,

S/o. Athilingam

having Office at

679/2, Sunrise Point,

Kanyakumari Bhavathiamman Thirukovil Premises,

Kanyakumari Beach Area,

Kanyakumari

... Petitioner

versus

1. The District Collector,

Nagercoil,

Kanyakumari District.

2. The Joint Commissioner/Executive Officer,

Hindu Religious and Charitable Endowment,

(Incorporated and Unincorporated Devasom Temples)

Suchindram Head Office,

Suchindram Post,

Kanyakumari District.



W.P.(MD)No.24650 of 2023

3. The Chairman,
Board of Trustees,
Incorporated and Unincorporated Devasom Temples,
Suchindram Head Office,
Suchindram Post,
Kanyakumari District.

4. The Manager,
Arulmigu Bhagavathiyamman Temple,
Kanyakumari,
Kanyakumari District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, to forbear the respondents from disturbing the peaceful running of the Licensee shops Nos.1, 2, 10 to 17 and 19 to 34 in F.Block in S.No.679/2 Kanyakumari Arulmighu Bhavathi Amman Temple of the petitioner's Association and continue to receive the License fees in term of the Board Resolution dated 09.01.2021 and the specific orders of this Court made in W.P.(MD)No.3115 of 2022 dated 17.02.2022.

For Petitioner : Mr.K.Sridhar
for M/s.S.Sivasudhan

For R1 : Mr.P.Subbaraj,
Special Government Pleader



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W.P.(MD)No.24650 of 2023

For R2 to R4 : Mr.R.Shankar Ganesh

ORDER

The Secretary of Sunrise Siru Muthaleetu Viyabarikal Nala Sangam has filed this writ petition for a Mandamus forbearing the respondents from disturbing their business in F-Block situated in S.No. 679/2 at Kanyakumari Arulmigu Bhagavathi Amman Temple with a consequential prayer to receive the license fees in terms of the Board Resolution dated 09.01.2021 and the orders of this Court in W.P. (MD)No.3115 of 2022 dated 17.02.2022.

2. The petitioner claims that the second respondent has put up some temporary shops in Survey No.679/2 in six blocks, namely, A-Block to F-Block and the members of the Association have been running the shops in F-Block from the year 2002. Now, the petitioner, with a grievance that the respondents are attempting to prevent them from continuing to run their shops, has approached this Court with the



W.P.(MD)No.24650 of 2023

above said prayer.

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3. The learned Senior Counsel appearing for the petitioner submits that the members of the petitioner are running their shops in F-Block in Survey No.679/2 like that of others from the year 2002 and they have been paying the rent without any default. However, a notice was issued by the 4th respondent on 27.12.2021 calling upon them to remove their temporary structures within a stipulated time. Challenging the same, the petitioner has filed a writ petition before this Court in W.P.(MD)No.3115 of 2022. This Court, by order dated 17.02.2022, directed the respondents to receive the rent for the period from 01.06.2021 to 01.09.2021 and allow them to run their shops.

4. The learned Senior Counsel has also relied on a Board Resolution dated 09.01.2021 and submits that the respondents have taken a decision to permit the members of the petitioner Association to run their shops. According to the learned counsel for the petitioner, the



W.P.(MD)No.24650 of 2023

respondents are running 247 shops in six blocks, namely A-Block to F-Block and the members of the petitioner Association, who are running 34 shops in F-Block, must be treated at par with others, who are running the shops in other blocks.

5. Mr.R.Shankar Ganesh, learned counsel appearing for the respondents 2 to 4 submits that the land in Survey No.679/2 belongs to Arulmighu Bhagavathiamman Temple, Kanyakumari. This land is situated in the seashore adjacent to the Temple. During the period from 15th November to 15th January of every year, there is a season in Kanyakumari and more number of tourists would visit Kanyakumari. In order to increase the income of the Temple, the Temple Administration decided to allow the street vendors to put up shops for ground rent on daily basis without any tender process.

6. The learned counsel for the respondents 2 to 4 further submits that a fire accident took place in the year 2021 and the Temple



W.P.(MD)No.24650 of 2023

Administration is facing serious problem with regard to the shop keepers in sea shore. In this regard, Public Interest Litigations are pending before this Court and therefore, this year, they are intending to remove all the shops, except the 38 shops in unnamed Block and 21 shops in A-Block. They are also taking steps to remove these shops in consultation with district Administration. He also submits that this place is the main place, where the tourists can assemble and enjoy the sunrise and sunset with clear view and the said place is used by the tourists and pilgrims for offering thithi to their ancestors. Hence, he prays for dismissal of this writ petition.

7. This Court considered the rival submissions made and perused the materials on record.

8. The petitioner claims that they have been permitted to put up shops in F-Block from the year 2002 and the same was not denied by the respondents. The respondents have also admitted that in Survey



W.P.(MD)No.24650 of 2023

No.679/2, there are 247 shops in six blocks, namely, A-Block to F-Block and an unnamed block consisting of 21, 34, 34, 48, 38, 34 and 38 shops. Now, the respondents have taken a stand that there was a fire accident in the year 2019, which caused huge damages and the Temple administration is also facing various litigations on the violation of Coastal Zone Regulation before the Division Bench. Considering the same, they have now intended to close down the shops. It appears that the respondents have not taken any decision with regard to other shops. If the respondents are permitting other shops, namely, shops in A-Block to E-Block and in the unnamed block, the members of the petitioner Association, who are running their shops in F-Block, can also be permitted to run their shops. If not, the respondents can take a decision in accordance with the Coastal Zone Regulation as expeditiously as possible and take uniform steps as against all the vendors in the coastal area. The respondent Temple can utilize their property, however, only in accordance with law and can allot the shops as per the procedure contemplated under the Religious Institutions



W.P.(MD)No.24650 of 2023

(Lease of Immovable Property) Rules, 1963. Accordingly, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

18.10.2023

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

Note: Issue order copy on 30.11.2023

To

1. The District Collector,
Nagercoil,
Kanyakumari District.
2. The Joint Commissioner/Executive Officer,
Hindu Religious and Charitable Endowment,
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W.P.(MD)No.24650 of 2023

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W.P.(MD)No.24650 of 2023

B.PUGALENDHI, J.

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W.P.(MD)No.24650 of 2023

18.10.2023