



WP(MD)Nos.30614 of 2023 etc.,

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)Nos.30614 to 30621, 30655 to 30662, 30253 to 30258, 30260, 30261, 29853 to 29855 of 2023
and W.M.P(MD).Nos.26318, 26326, 26328, 26329, 26319, 26324, 26325, 26333, 26357, 26359, 26371, 26375, 26358, 26354, 26349, 26351, 26054, 26058, 26059, 26061, 26070, 26072, 26073, 26074, 25763, 25760 and 25771 of 2023

Prayer in W.P(MD).No.30614 of 2023

V.P.Alakiyamanavalan

.. Petitioner

vs.

- 1.The Principal Secretary,
Tourism Culture and Religious Endowments Department,
Government of Tamil Nadu,
Fort St.George,
Secretariat, Chennai-600 009.
- 2.The Commissioner,
Hindu Religious and Charitable Endowment Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai-600 034.
- 3.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Trichy Division,
Uthamar Koil Complex,
Pichandar Koil, Trichy District.



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4.The Executive Officer/Joint Commissioner,
A/m. Sri Ranganathaswamy Temple,
Vellithirumutham Village,
Srirangam Taluk, Trichy District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorari, calling for the records of the impugned order of the first respondent in G.O(Ms).No.427, Tourism Culture and Religious Endowments (RE) Department, dated 18.11.2023 and quash the same insofar as shop No.8A situated at Sriranga Vilas Mandapam.

For Petitioner : Mr.H.Arumugam

For Respondents : Mr.P.Subbaraj
Special Government Pleader
for R1 to R3
Mr.M.Saravanan for R4

COMMON ORDER

The petitioners claiming to be the lessees are permitted to have the shops inside Arulmigu Renganathar Swamy Temple situated in Velithirumuthyam Village, Srirangam Taluk, Tiruchirappalli District and were provided space in between the pillars for having the shops and they are selling pooja and other articles which are required for the devotees. The petitioners claim that they are having the stalls for more than six decades and have been paying the rent regularly and there is no default in payment of the rent and the rent has also been



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periodically revised. While so, in the year 2014, the petitioners were directed to vacate the premises on account of the proposed Kumbabishekam to be conducted.

The third respondent has initiated proceedings to evict the petitioners from the premises on the ground that the shops inside the Temple were situated between pillars and were marring the artistic appearance of the Temple. In this regard, the third respondent has issued notice to the petitioners, however, the petitioners/stall owners did not vacate the shops and thereafter, the third respondent, vide proceedings dated 27.02.2019 and 31.01.2019, has directed the petitioners to vacate the shops, as against which, the petitioners have preferred appeals before the second respondent under Section 81 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, and the second respondent rejected the appeals preferred by the petitioners confirming the order of the third respondent. Challenging the same, the petitioners have filed revisions before the Government under Section 114 of the said Act, 1959 and the same were also dismissed vide impugned Government Orders, against which, these Writ Petitions have been filed.

2. The learned counsel appearing for the petitioners submits that the petitioners are running the stalls for more than 5 to 6 decades and the proceedings were initiated in the year 2014 to evict the petitioners from the stalls at the time of



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conducting Kumbabhishekam for the said Temple. There was no renovation in the place where the petitioners are having stalls and Kumbabhishekam was also over.

Therefore, the respondents are not justified in continuing the proceedings against the petitioners which were initiated in the year 2014. The respondents have proceeded with the action only based on the photographs produced by the Temple Administration that in some shops, temporary extensions were made which are marring the artistic appearance of the Temple. Based on the temporary extensions made by few lessees, the respondents are not justified in initiating action as against all the shop owners. In this regard, the learned counsel has also relied on the judgment of the Hon'ble Supreme Court of India in the case of ***S.Kumar vs. Commissioner and others*** reported in ***(2019) 5 SCC 244*** and submits that the Department ought to have considered the case of the shop owners individually and in accordance with law. However, the respondents have not considered the case of the petitioners individually and action has been taken against all the stall owners for the mischief played by some of the lessees. The relevant paragraphs are extracted hereunder:-

“ 11. In our considered opinion, the issue raised in these appeals is governed by the provisions of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (for short “the Act, 1959). Chapter VII of the Act, 1959 deals with the cases of encroachment on the land



belonging to religious institutions. This chapter consists of Sections 77 to 85.

12. Section 77 of the Act, 1959, deals with transfer of lands appurtenant to or adjoining religious institutions prohibited except in special cases. Section 78 deals with encroachment by persons on land or building belonging to charitable or religious institutions or endowments and the eviction of encroachers. Section 79 deals with mode of eviction on failure of removal of the encroachment as directed by the Joint Commissioner. Section 79A deals with encroachment by groups of persons on land belonging to charitable religious institutions and their eviction. Section 79B deals with penalty for offences in connection with encroachment. Section 79C deals with recovery of moneys due to religious institution, as arrears of land revenue.

13. Section 80 deals with eviction of lessees, licensees or mortgagees with possession in certain cases. Section 81 provides for an appeal against Joint Commissioner or the orders of Deputy Commissioner passed under Section 80. Section 82 provides for payment of Compensation. Section 83 deals with constitution of the Tribunal. Section 84 deals with suits against the award. Section 85 provides for protection of action taken under Chapter VII of the Act, 1959.

14. As mentioned above, the controversy, which is the subject matter of these appeals, is governed by the provisions of the Act, 1959. It is not in dispute that the respondents did not resort to the remedies provided to them under the Act against any of the appellants. In other words, it is not in dispute that the action taken by the respondents, which



was impugned by the appellants in the writ petitions before the High Court, was not taken under the Act, 1959.

15. It is for this reason, we are inclined to allow these appeals, set aside the impugned order and grant liberty to the respondents to take recourse to the remedies provided to them against the appellants individually in relation to the controversy raised by them in these proceedings.

16. Needless to say, we have not gone into the merits of the claim raised by the appellants whether individually or/and severally. The respondents will, therefore, be at liberty to proceed in the matter in question against the appellants individually strictly in accordance with law uninfluenced by any observations made by this Court.”

3. Without any specific allegation against the petitioners as to the manner in which they have marred the artistic appearance of the Temple, the respondents are not justified in passing the order under Section 80 of the said Act. It is the only avocation of the petitioners to run their family and the same is taken away by way of the impugned Government Orders which would affect their fundamental rights provided under Article 21 of the Constitution of India.



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4. The learned counsel appearing for the respondents submits that Section 80 of the said Act enables the Joint Commissioner to initiate action to evict the lessees, if they are marring the atmosphere and the artistic appearance of the Religious Institution by way of putting the stalls. Though the petitioners claim that they are permitted to have stalls for several decades, the petitioners have not been recognised by the Temple Administration by issuing license or lease permitting them to conduct the shops. Since the petitioners were in occupation, the rent was collected from them and they have extended the shops by putting some temporary extensions and thereby, the atmosphere and artistic appearance of the Temple are marring. When Kumbabhishekam was performed in the Temple in the year 2014, the Joint Commissioner has requested the petitioners to vacate the premises for the purpose of renovation, however, they refused to do the same and therefore, notice was issued to them.

5. The learned counsel appearing for the respondents further submits that the petitioners are not entitled to conduct the stalls, when the Temple administration has not recognised them with any license or lease and the temporary structure made by the petitioners is affecting the artistic appearance of the Temple and Sannathi is also not visible due to stalls put up by the petitioners. He further



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submits that after the incident which took place at Arulmighu Meenakshi Amman Temple, a policy decision has been taken by the Temple Administration that there cannot be any shops inside the Temple. Therefore, according to the learned counsel, the stalls put up by the petitioners are without any authority and it affects the atmosphere and artistic appearance of the Temple.

6. This Court considered the rival submissions made by both sides and perused the materials available on record.

7. Admittedly, the petitioners are having the stalls inside the Temple premises. The petitioners claim that they are in possession of the shop for more than five decades and now, the respondents are directing them to vacate the premises that the shops put up by them are affecting the atmosphere and artistic appearance of the Religious Institution. Therefore, a notice was issued to the petitioners and similarly placed persons in the year 2014 itself under Section 80(2) of the Hindu Religious and Charitable Endowments Act. After several rounds of litigation, the Government has passed the impugned order confirming the orders of the Commissioner. Section 80(2) of the said Act is extracted hereunder:-



“(2) I[The Joint Commissioner or the Deputy Commissioner, as the case may be], if satisfied that the artistic appearance or the religious atmosphere of the religious institution has been marred or is likely to be marred by the action of the lessee, licensee or mortgagee with possession shall cause to be served on the lessee, licensee or mortgagee concerned, a notice calling upon him to show cause before a certain date why an order terminating the lease license or cancelling the mortgagee, and requiring the lessee, licensee or mortgagee, as the case may be, to deliver possession of the property which is the subject of the lease, licence or mortgage to the trustee before a date specified in the notice should not be made. A copy of the notice shall also be sent to the trustee of the religious institution concerned.”

8. As per Section 80(2) of the said Act, it is the duty of the Joint Commissioner to preserve the artistic appearance or the atmosphere of the Religious Institution. However, before taking any action under Section 80(2) of the said Act, the concerned Officer has to issue a show cause notice. In this case, notice under Section 80(2) of the said Act was issued in the year 2014. Admittedly, all the shops are within the Temple complex and are situated in between the pillars.

9. Arulmigu Renganathar Swamy Temple is an ancient Temple which has to be preserved by the Temple Authority. The Temple is not a commercial complex



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where commercial activities can be permitted. The atmosphere which is required for any Religious Institution is to be neat, clean and peaceful environment. It is not known on what circumstances these petitioners were allowed to occupy the Temple premises and were permitted to have the shops inside the Temple. From the available materials on record, it appears that these shops are used for selling the goods other than the pooja articles. The Department has claimed that Sanathai is not visible due to the shops put up by the petitioners and the articles hanging in front of the shops. Sanathi is said to have been constructed during the period 1623 to 1659 AD. As per Archeological inspiration, during the period of Thirumalai Nayakar, Rengavilas Mandapam has totally 200 numbers of pillars and some of the shops are occupying 14 numbers of pillars. Five shops are near Nathamuni Sanathi and other shops are in the entrance of Nathamuni Sanathi, which was constructed during 14th Century. It is the duty of the Department to preserve the artistic appearance as well as the Religious Atmosphere. Section 80(2) of the said Act mandates the Joint Commissioner or the Deputy Commissioner, as the case may be, to take appropriate action to preserve the religious atmosphere and the artistic appearance. Therefore, the respondents cannot be found fault with for initiating action under Section 80(2) of the said Act on the petitioners who are having the shops inside the Temple. The notice as mandated under Section 80(2) of the said



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Act was duly issued and the proceedings reached its finality by the Government.

The Government has also considered the grounds raised by these petitioners in support of their revision petitions.

10. Though the petitioners claim that they are the lessees of the Temple, they have not produced any document to substantiate their case that they were permitted by the Temple Administration with lease to have their shops inside the Temple. In the absence of any document, the petitioners cannot claim occupation of the Temple premises as a matter of right. Since some of the petitioners have been permitted by the Department to occupy, it would not create any right on the petitioners to occupy the shops perpetually. The receipts for collection of rent by itself cannot create an agreement between the petitioners and the Department. Mere acceptance of the rent would not automatically tantamount to renewal of the lease. It is not known as to whether the petitioners were permitted to put up the shops and whether the petitioners have been permitted to occupy the shops inside the Temple. Therefore, they cannot claim any right, as a matter of right, to continue to occupy the Temple premises.



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11. The religious atmosphere is a basic requirement and paramount in any Religious Institution. The Temple must have an environment reflecting the culture and tradition of the temple. It is the duty of the Department to preserve the culture and atmosphere of the Religious Institution. However, the Department is concentrating only in revenue from the Temple properties instead of preserving them. Permitting such shops inside Meenakshi Amman Temple has taught a very big lesson to the Department in the year 2018. Even after several years, though Meenakshi Amman Temple is having sufficient funds, the Department is not in a position to restore the damaged Mandapam to its original position. Therefore, at any point, the shops inside the Temple can never be permitted. It is the responsibility of the Hindu Religious and Charitable Endowments Department to ensure the religious atmosphere in every Temple. The Department has to take a decision not to permit any shops inside the Temple.

12. In this case, since the petitioners have not made out any case, this Court is not inclined to interfere with the orders of the Government. However, the petitioners claim that they were permitted to have the shops inside the Temple by the Authorities for more than five decades and based on the same, they are eking their livelihood. Therefore, the respondents shall consider the case of the



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petitioners sympathetically and find out any alternative place in any of the Temple lands to have their shops. The petitioners shall also be permitted to have their shops inside the Temple for a period of three months to enable them to find an alternative.

13. Accordingly, these Writ Petitions are dismissed. There shall be no order as to costs. Connected miscellaneous petitions are closed.

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Index : Yes / No
NCC : Yes / No
Internet : Yes
ssb

To

1.The Principal Secretary,
Tourism Culture and Religious Endowments Department,
Government of Tamil Nadu,
Fort St.George,
Secretariat, Chennai-600 009.

2.The Commissioner,
Hindu Religious and Charitable Endowment Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai-600 034.

3.The Joint Commissioner,

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