



W.P(MD)No.30784 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.30784 of 2023 and
WMP(MD) No.26441 of 2023

Gnanasekaran

... Petitioner

Vs

1.The Commissioner,
Hindu Religious and Charitable Endowment Department,
Nungambakkam,
Chennai.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Nungambakkam,
Chennai.

3.The Executive Officer,
Arulmighu Moonkilanai Kamatchiamman Temple,
Devadanampatti,
Periyakulam,
Theni District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, to direct the respondents to permit the petitioner to continue as cultivating tenant



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of the land situated in Survey No.1620 by considering the petitioner's representation dated 18.12.2023.

For Petitioner : Mr.T.Palanisamy
For Respondents : Mr.P.Subba Raj
Special Government Pleader

ORDER

The petitioner claims that he is a cultivating tenant of the temple land in S.No.1620 of Kenguvarpatti, Periyakulam Taluk, Theni District to an extent of 3 acres and he has filed this writ petition for a Mandamus directing the respondents to permit the petitioner to continue as a cultivating tenant of the land in S.No. 1620 by considering his representation dated 18.11.2023.

2.The learned counsel appearing for the petitioner submits that the petitioner is in occupation of the subject land for cultivation for more than six decades. Initially, the petitioner's ancestors were cultivating in the subject land. The petitioner claims that he was recognized with a receipt issued by the HR & CE Department from the year 1980. While so, without passing any order



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evicting this petitioner as a tenant from the subject land, the respondents have brought the subject property for public auction.

The petitioner claims that now he has raised maize in the said land. The petitioner has also made a representation on 18.12.2023 that he is prepared to pay the lease amount to the temple as arrived at by the temple administration and the same has not been considered and therefore, this petitioner has filed this writ petition. The learned counsel appearing for the petitioner has relied upon the judgment of the Division Bench of this Court in WA 1174 of 2012, dated 20.07.2016 and submits that this land would not fall under the category of the Religious Institutions (Lease of Immovable Property) Rules, 1963 and it will fall only under the Tamil Nadu Public Trusts(Regulations of Administration of Agricultural Lands) Act, 1961. The relevant paragraphs in the above judgment is extracted as under

13.Though the temple is listed under Section 46 of Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, the land in question does not fall under the Act. As per the provisions of the Tamil Nadu Public Trusts



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(Regulations of Administration of Agricultural Lands) Act, 1961, the land will come under the purview of the said Act. The Religious Institutions (Lease of Immovable Property) Rules, 1963, prohibits its applicability to the lands coming under the purview of the Tamil Nadu Public Trusts (Regulations of Administration of Agricultural Lands) Act, 1961. Therefore, issuance of notice for public auction, invoking the provisions of Tamil Nadu HR & Ce Act and the Religious Institutions (Lease of Immovable Property) Rules, 1963 by the temple authorities is contrary to the provisions of law.

14.It is well settled that even a trespasser cannot be dispossessed, except under due process of law. The appellant being statutory tenant has been cultivating the lands in question for the past 25 years. There is provision to evict a tenant under Tamil Nadu Public Trusts Act. Section 19 of the said Act provides the procedure to evict cultivating tenant in certain cases. Without resorting to any procedure known to law, to evict the appellant from the land, issuance of the notification for public auction to lease out the land is a gross violation and is liable to be quashed.”



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3.Mr.P.Subba Raj, learned Special Government Pleader

takes notice for the respondents and submits that this petitioner has sent a representation on 18.12.2023 and has filed this writ petition on 20.12.2023 even before the representation reaches the Department. He further submits that the land in S.No.1620 is with the respondent temple and this property has been brought in for auction as per Rule 11 of the Religious Institutions (Lease of Immovable Property) Rules,1963, along with other properties. The auction, which was scheduled to be conducted on 08.11.2023 was not conducted in view of some dispute arose during the auction and therefore, the auction is postponed. He further submits that the petitioner is not having any lease and licence with the HR & CE Department and the land is still with the temple administration.

4.This Court considered the rival submissions made and also perused the materials placed on record.

5.The petitioner claims that he is a cultivating tenant in



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the land in S.No.1620 to an extent of three acres, which belongs to the third respondent temple. According to him, he is in occupation of the subject land ancestrally. At present, he has raised maize in the subject land. He is also prepared to pay the fair rent to the temple administration as proposed by them. However, it appears that he has not paid any amount to the temple administration towards lease/rent for the past 10 years. He has not taken any steps to recognise himself as a cultivating tenant of the subject land by filing necessary application for registration of tenancy. No lease agreement has been entered between the petitioner and the temple administration so far. However, the petitioner claims that he is a cultivating tenant of the subject land for several years and this land is in possession of their ancestors for several years.

6.Considering the fact that the petitioner is in possession of the subject land for several years and now he claims that he is cultivating maize in the subject land and also taking into consideration of the fact that the petitioner is now prepared to pay



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fair rent for the subject land as proposed by the temple authorities, this writ petition is disposed of with a direction to the temple authorities to consider the case of the petitioner sympathetically. In the event, if the petitioner is prepared to pay a fair rent for the subject land, the same shall be considered by the temple authorities within a period of six weeks from the date of receipt of a copy of this order as per the judgment passed in WA No.1174 of 2012, dated 20.07.2016. No costs. Consequently, connected Miscellaneous Petition is closed.

21.12.2023

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

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B.PUGALENDHI, J.

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