



WEB COPY



W.A.No.582 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.06.2024

CORAM

THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

W.A.No.582 of 2021
and
CMP.No.2457 of 2021

1. T.Balan
2. M.Kothandaraman

... Appellants

Vs.

1. Mohanakrishnan
2. The Executive Officer,
Sri Athithulyanatheeswarar Temple,
Arankandanallur, Tirukoilur Taluk,
Villupuram District.
3. The Deputy Commissioner,
HR & CE Department,
Trichy District.
4. The Regional Manager,
M/s.Bharat Petroleum Corporation Limited,
Tondiarpet,
Chennai-600 081.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent praying to set aside the order dated 12.03.2020 passed in W.P.No.33522 of 2014.



WEB COPY



W.A.No.582 of 2021

For Appellants : Mr.N.L.Rajah
Senior Counsel
for Mr.K.R.Arunsabari

For Respondents : Mr.Avinash Wadhwani
for Mrs.V.Srimathi for R1
Mr.N.R.R.Arun Natarajan
Special Government Pleader (HR & CE)
for R2 & R3
No Appearance for R4

J U D G M E N T

[Judgment of the Court was delivered by **S.M.SUBRAMANIAM, J.**]

The present intra-Court appeal has been instituted challenging the order dated 12.03.2020 passed in WP.No.33522 of 2014. The respondents 4 and 5 in the writ proceedings are the appellants before us. The entertainability of the writ petition has been primarily raised by the learned Senior Counsel Mr.N.L.Rajah on behalf of the appellants on the ground that the civil right of the writ petitioner/first respondent is the cause raised in the writ petition and therefore, the Writ Court ought not to have entertained the writ petition for the purpose of considering the relief as sought for in the writ petition by the first respondent.



W.A.No.582 of 2021

WEB COPY

2. Mr.N.L.Rajah, learned Senior Counsel would further contend that with reference to the right of the first respondent to administer an endowment constituted under the provisions of the Tamil Nadu Hindu Religious and Charitable Endowments Act is subjudiced before the Hon'ble Supreme Court of India. The suit was instituted and the plaintiff succeeded and the First Appeal was partly allowed. SLP filed before the Hon'ble Supreme Court of India is pending and an interim order of status quo has been granted. Pursuant to the interim order of status quo granted by the Hon'ble Supreme Court of India, the lease executed is acted upon and a retail petrol Bunk is in operation. Originally, a lease deed dated 31.10.2011 was executed by the first respondent-Mohanakrishnan in favour of Smt.Seethalakshmi. Subsequent to the interim order of status quo granted by the Hon'ble Supreme Court of India on 05.09.2014, the first respondent Mohanakrishnan executed a lease deed in favour of BPCL on 15.06.2016 for a period of 29 years for a monthly lease amount of Rs.5,000/-. The leased out land is admeasuring 30 cents and a valuable land. The learned Senior Counsel Mr.N.L.Rajah would submit that the lease amount itself is not in commensuration with the market rental value of the property and the lease deed was executed after grant of an interim order of status quo by the Hon'ble Supreme Court.



W.A.No.582 of 2021

WEB COPY

3. However, the learned Special Government Pleader Mr.N.R.R.Arun Natarajan would submit that as per the judgment and decree passed in A.S.No.747 of 1998, the Executive Officer of the temple also must be jointly managing the affairs of **Kattalai** property along with the first respondent.

4. However, the issues involved in the SLP need not be adjudicated in the present writ proceedings.

5. We are inclined to consider the scope of the writ proceedings with reference to the relief sought for. The first respondent filed a writ of Mandamus to forbear the respondents from interfering with the right of the petitioner to lease out the property to Mrs.Seethalakshmi. He executed the lease deed in favour of Smt.Seethalakshmi on 31.10.2011 and after the interim order of status quo by the Apex Court, the first respondent further executed a lease deed in favour of BPCL on 15.06.2016. Lease right with reference to the temple property need not be adjudicated in the present writ proceedings. Admittedly, the subject property is an endowment constituted and falling under the provisions of the Tamil Nadu Hindu Religious and



W.A.No.582 of 2021

Charitable Endowments Act. Section 34 of the Act deals with alienation of immovable Trust property and reads as under:-

“34. Alienation of immovable trust property.—(1) Any exchange, sale or mortgage and any lease for a term exceeding five years of any immovable property, belonging to, or given or endowed for the purpose of, any religious institution shall be null and void unless it is sanctioned by I[the Commissioner] as being necessary or beneficial to the institution :

Provided that before such sanction is accorded, the particulars relating to the proposed transaction shall be published in such manner as may be prescribed, inviting objections and suggestions with respect thereto; and all objections and suggestions received from the trustee or other persons having interest shall be duly consider by I[the Commissioner] :”

6. It is mandatory to secure permission from the competent authority under the Act to lease the temple property endowed. More so, any lease of property for a term exceeding 5 years, permission is to be obtained from the Commissioner of HR and CE. Such permission is to be granted by the Commissioner as being necessary or beneficial to the institution. The learned



W.A.No.582 of 2021

Special Government Pleader would contend that no such permission was granted. However, the relief as such sought for in the writ proceedings to forebear the respondents from interfering the rights of the petitioner to lease out the property, cannot be considered by the Writ Court nor such writ petitions are entertainable. Such rights are to be established through civil proceedings, which has already been instituted and subjudiced before the Apex Court of India. That being the factum, the writ petition is not entertainable and consequently, we are inclined to interfere.

7. Accordingly, the writ order dated 12.03.2020 passed in W.P.No.33522 of 2014 is set aside and consequently, the Writ Appeal stands allowed. No costs. Consequently, connected CMP is also closed.

[S.M.S., J.] [C.K., J.]
04.06.2024

kmi

Index : Yes

Speaking order : Yes

Neutral Citation : Yes/No



W.A.No.582 of 2021

WEB COPY

- To
1. The Executive Officer,
Sri Athithulyanatheeswarar Temple,
Arankandanallur, Tirukoilur Taluk,
Villupuram District.
 2. The Deputy Commissioner,
HR & CE Department,
Trichy District.
 3. The Regional Manager,
M/s.Bharat Petroleum Corporation Limited,
Tondiarpet,
Chennai-600 081.



WEB COPY



W.A.No.582 of 2021

S.M.SUBRAMANIAM, J.
and
C.KUMARAPPAN, J.

kmi

W.A.No.582 of 2021

04.06.2024