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W.P.No.10349 of 2021

IN THE HIGH COURT AT JUDICATURE AT MADRAS

DATED: 14.10.2024

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.10349 of 2021

and

WMP.No. 10926 of 2021

The Tamil Nadu Agricultural Engineers Association,
No. 16, Perumal Koil Street,
Anna Salai, Chennai – 600002,
represented by its General Secretary Mr. A. Rajasekaran.

...Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Chennai - 600 034.

2. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Chennai Region, Chennai.

3. The Executive Officer,
Arul Mighu Pachaianman Thirukoil,
Anna Salai, Chennai - 600002.

...Respondents

Writ petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the First Respondent in Order D.Dis.No. 1394 / 2019 / D2 dated 09.06.2020 and quash the same and direct the First Respondent to treat the



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Revision Petition filed by the Petitioner Association on 07.08.2018 as within time and take on file the said Revision Petition and consider the same on merits and in accordance with law.

For Petitioner : Mr.P.Rajendran
For Respondents : Mr.NRR Arun Nataraja
Government Advocate

ORDER

Writ petition is filed for a issuance of a writ of certiorarified mandamus, call for the records relating to the impugned order of the 1st respondent dated 09.06.2020 and quash the same and for a direction to the 1st respondent to consider the Revision Petition filed by the petitioner's association on 07.08.2018 as within time.

2. The case of the petitioner is that the property No.16, Perumal Koil Street, Anna Salai, Chennai was leased out to one Mr.Parthasarathy Naicker by a Lease Deed dated 05.07.1969 by the Trustees of Arul Mighu Pachaiaimman Thirukoil and he was permitted to construct a superstructure at his own cost and to pay ground rent to the temple and subsequently Parthasarathy Naicker died in the year 1983 leaving behind his wife Dhanalakshmi Ammal and only daughter Kothainayagi as legal heirs and they were also recognized as owners of the



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superstructure by the Trustees of the Temple and subsequently the said Dhanalakshmi Ammal and Kothainayagi sold the property in favour of the petitioner's association by registered Sale Deed dated 11.11.1993 on the file of Sub-Registrar, Thousand Lights and thereby petitioner association become owner of the superstructure and has been paying the ground rent of Rs.1,285/- to the Temple. The petitioner association is the lawful owner of the property and tenant of the land belong to the Pachaiaimman Temple. All of a sudden, the ground rent was raised from Rs.1,285/- to Rs.8,370/- and aggrieved by the same, the petitioner association made a representation on 23.03.2018 to the Commissioner, HR & CE Department, Chennai, requesting to reconsider the enhancement of the ground rent. However, the 2nd respondent passed order on 03.04.2018 under Section 78(4)(i) of the HR & CE Act, for eviction of the petitioner from the premises on the ground that petitioner not paid rental arrears amount to the Temple and as against the order passed by Joint Commissioner, HR & CE, Chennai on 03.04.2018, the petitioner association filed Revision Petition before the 1st respondent, but the 1st respondent rejected the Revision Petition on the ground that there was 41 days delay in filing the Revision Petition. Challenging the same, the present writ petition is filed.

3. Learned counsel appearing for the petitioner would submit that due to the



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Covid pandemic the Hon'ble Supreme Court granted extension of time enabling the persons to file appropriate application before the Revision Authority. Though the 2nd respondent passed order on 03.04.2018, however the same was served on the petitioner only on 10.07.2018 and immediately thereafter the petitioner filed Revision Petition before the 1st respondent. However, the 1st respondent rejected the Revision on the ground of delay which is impermissible, accordingly he prayed for appropriate orders.

4. Per contra, learned Government Advocate appearing for the respondents would submit that, admittedly the land belong to the Pachaianman Temple and the superstructure constructed also belong to Pachaianman Temple and if any person touched the superstructure without any permission of the HR & CE Department under Section 34 of the Act, the person cannot be termed as owner of the superstructure or whatever constructed in the land belong to the Temple. In the present case, the arrears amounts to Rs.7,15,520/- and not even a single pie was paid as on date and further submitted that there is no provision available to condone the delay. In the absence of any provision, the first respondent rightly passed the order which warrants no interference. Accordingly he prayed for dismissal of the writ petition.



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5. Heard learned counsel appearing for the petitioner and learned counsel appearing for the respondents.

6. The facts in the present case are not disputed. Admittedly, the petitioner association is the tenant of the Temple. Though the petitioner association purchased the superstructure from the legal heirs of Parthasarathy Naicker, however, no permission was obtained from the HR & CE Department under Section 34 of the Act. Be that as it may, as on date the arrears amounts to Rs.7,15,520/- and however as against order passed by the 2nd respondent, the petitioner preferred Revision before the 1st respondent, however the 1st respondent rejected the revision on the ground that application is not sustainable. However there is a delay of only 41 days. Hence the impugned order dated 09.06.2020 is liable to be set aside. Accordingly the order of the 1st respondent in Order D.Dis.No. 1394 / 2019 / D2 dated 09.06.2020 is set aside.

7. The petitioner is directed to deposit a sum of Rs.5,00,000/- (Rupees Five Lakhs only) before the 3rd respondent within a period of two (2) weeks from the date of receipt of a copy of this order and produce the receipt for such payment before the 1st respondent. Upon production of such receipt, the 1st respondent is



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directed to restore the Revision filed by the petitioner and after affording opportunity to the petitioner, pass appropriate orders on merits in accordance with law.

The writ petition is allowed with the above directions. No costs.
Consequently, connected WMP is closed.

14.10.2024

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Index: Yes/No

Speaking Order: Yes/No

Neutral citation: Yes/No



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M.DHANDAPANI,J.

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