



W.P.No.2772 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2024

CORAM

THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.2772 of 2018

and

WMP.No.3419 of 2018

1. R.Sivasamy
2. Rajalakshmi
3. R.Kalimuthu
4. Maheswari
5. K.Ponnusamy
6. K.Velliangiri
7. K.Shanmugasundaram
8. Nagaraj

...Petitioners

Vs.

1. The State of Tamilnadu,
Rep. by its Secretary to Government,
Tourism, Culture and Religious Endowments Department,
Fort St. George, Chennai – 600 009.
2. The Commissioner,
Hindu Religious and Charitable Endowments Department,
119, Uthamar Gandhi Road, Nungambakkam,
Chennai – 600 034.
3. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Dr.Balasundaram Road, Coimbatore – 18.



W.P.No.2772 of 2018

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4. The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
A/m. Visweshwareswaraswamy and Veeraraghava Perumal Temple,
Tiruppur, Tiruppur District.
5. A/m. Kondathur Kaliamman Temple,
Rep. by the Executive Officer,
Perumanallur, Tiruppur District.
6. Alagesan
Thakkar,
A/m. Kondathur Kaliamman Temple,
Perumanallur, Tiruppur District.
7. C.Subramaniam ...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 to 6 to pay compensation of Rs.10 Lakhs each to the petitioners, restore their possession over the extent under their occupation in the lands measuring 1.04 acres comprised in S.No.271 of Ettiverrampalayam Village and 64 cents comprised in S.F.No.277/3 of Perumanallur Village, Tiruppur District by taking action against the respondents who are responsible for the loss of the petitioners' life and property and shelter which are recognized as the fundamental right under Article 21 of the Constitution of India, by considering their representation 12.01.2018.

For Petitioners : Mr.N.Manokaran

For Respondents : Mr.S.Ravichandran, AGP, for R1 to R4
: Mr.Rajesh Vivekanandan, for R5
: No Appearance, for R6 & R7



W.P.No.2772 of 2018

ORDER

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1 to 6 to pay compensation of Rs.10 Lakhs each to the petitioners, restore their possession over the extent under their occupation in the lands measuring 1.04 acres comprised in S.No.271 of Ettiverrampalayam Village and 64 cents comprised in S.F.No.277/3 of Perumanallur Village, Tiruppur District by taking action against the respondents who are responsible for the loss of the petitioners' life and property and shelter which are recognized as the fundamental right under Article 21 of the Constitution of India, by considering their representation dated 12.01.2018.

2. It is the case of the petitioners that, they along with 90 other families have been in possession and occupation of the lands measuring 1.04 Acres in S.F.No.271 at Ettiveerampalayam and an extent of 65 Cents in S.F.No.at Peruma Nallur Village, Avinashi Taluk, Tiruppur District and it is the 5th respondent who inducted them and their predecessors as the tenants in and over a small portion of the above said lands and continued to recognize them as the statutory tenants. While so, all of a sudden, the 5th respondent issued an eviction notice dated 06.05.2014. Aggrieved by the

3/11



W.P.No.2772 of 2018

same, W.P.Nos.14074 to 14077 of 2014 have been filed and the same was disposed of by this Court by directing the petitioners therein to submit their objections. Pursuant to which, the petitioners submitted their objections, whereupon, without any enquiry as contemplated u/s.78 of the HR & CE Act, 1959, the 3rd respondent has passed an order dated 11.04.2017, directing the petitioners to vacate and surrender possession on or before 30.06.2017. Notwithstanding the pendency of the proceedings under Sections 78 and 79 of the Act, 1959, we have been paying rent as agreed. While so, to the shock and dismay, the 5th respondent has sent several demand notices dated 12.05.2017, 24.05.2017 and 07.06.2017 directing the petitioners to pay exorbitant rate of rent without any basis and order from the Government. In such circumstances, the petitioners preferred an Appeal before the 2nd respondent in R.P.Nos.231 to 285 of 2017. Pending the same, the 4th and 5th respondents illegally sealed the houses and shops and also disconnected the electricity connection. Aggrieved by the above said conduct of the officials, the petitioners have filed W.P.Nos.26945 to 26954 of 2017 and pursuant to the order of this Court dated 13.10.2017, the 2nd respondent has passed an order dated 15.12.2017. Challenging the same, the petitioners have filed revision petitions on 28.12.2017 before the 1st

4/11



W.P.No.2772 of 2018

respondent. On the very same date of filing the revision petitions, the respondents 4 to 7 along with 70 police men came to the subject property on 28.12.2017 without prior notice and demolished the houses, shops, school etc. constructed over the said property. Hence, the petitioners have come up with this Writ petition seeking the above relief.

3. Learned counsel for the petitioners submits that, pending revision u/s.114 of the H & CE Act before the 1st respondent, the officials demolished the various constructions raised by the petitioners which is wholly unsustainable and the said act of the official respondents is highly condemnable. Thereby, the petitioners are entitled for just and reasonable compensation.

4. Per contra, the learned Additional Government Pleader appearing on behalf of the respondents 1 to 4 submitted that, admittedly the eviction order was passed on 11.4.17 directing the petitioners to vacate and surrender possession of the subject property on or before 30.06.17, aggrieved by which, the petitioners filed RP.Nos.231 to 285 of 2017. In the mean time, as the respondents 4 and 5 high-handedly locked and sealed the premises,



W.P.No.2772 of 2018

the petitioners filed W.P.Nos.26945 to 26954 of 2017 and pursuant to the directions of this court, the subject premises were desealed and subsequently the appeals were dismissed on 15.12.2017. Challenging the same, the petitioners preferred revision before the 1st respondent on 28.12.17, however, no interim order was obtained by the petitioners and in the absence of any interim order, the officials have taken possession of the subject property by demolishing the illegal constructions raised in the said land, which cannot be said to be erroneous and in the absence of any interim order, the petitioners are not entitled for any compensation.

5. Learned counsel appearing for the 5th respondent submitted that, the petitioners have encroached upon the temple land to an extent of 1.04 acres, which was subsequently taken possession and handed over to the 5th respondent on 15.12.17 and the 5th respondent is possession and in occupation of the subject property and had taken policy decision to construct Thirumana Mandabam in the name of A/m. Kondathu Kaliamman and also decided to construct a Annadhaana koodam in the name of the said temple.



W.P.No.2772 of 2018

6. Though notice was served and the names of the 6th & 7th respondents were printed in the cause list, none appeared on their behalf.

Considering the period of pendency of this Writ petition, this Court is inclined to dispose of this petition based on the materials available on record.

7. The facts in the present case are not in dispute. The lands belong to the temple is not disputed by the petitioners. However, the fact remains that the petitioners have been in occupation for a long period of time and when the rent was fixed by the HR & CE Department, it was termed to be exorbitant resulting in a notice to the petitioners to vacate and surrender possession of the premises.

8. It is also admitted that R.P. Nos.231 to 235 of 2017 was filed and pending the same, the premises were locked and sealed resulting in filing of writ petitions before this Court in which this Court was pleased to dispose of the same with a direction to remove the seal and restore electricity connection subject to the order to be passed in the pending revision petitions.



W.P.No.2772 of 2018

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9. It is the stand of the petitioners that pending final orders in the above revision petitions, the respondents have demolished the structures raised by the petitioners, which has been done without prior intimation and notice. Therefore, the fact remains that the superstructures have been demolished. Further, it is to be noted that it is the stand of the respondents that the said lands are sought to be used for the benefit of the temple as also for public purpose by building Annadhanam koodam, etc. That being the stand of the contesting parties, this Court cannot pass any orders directing payment of compensation as sought for by the petitioners, as admittedly, the lands belong to the temple and also for the reason that the revision petition is pending adjudication and the disputes, if any, raised by the parties could be sorted out only in the revision petition and not before this Court. In such view of the matter, this Court is of the considered view that no orders, as sought for, can be passed at this juncture and the petitioners have to canvass their grievance in the pending revision petitions.



W.P.No.2772 of 2018

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10. In such view of the matter, this writ petition is dismissed, granting liberty to the petitioners to canvass all the points before the 1st respondent where the revision is pending. No costs. Consequently, the connected Miscellaneous petition is closed.

18.10.2024

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NCC : Yes/ No
Speaking Order : Yes/ No
Index : Yes/ No

To

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9/11



W.P.No.2772 of 2018

WEB COPY

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