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WP No. 11077 of 2017 & CRP (PD) No. 3807 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2024

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

Writ Petition No.11077 of 2017
and
Civil Revision Petition (PD) No.3807 of 2016
and
W.M.P. Nos.12019 and 12020 of 2017
and
C.M.P. Nos.19456 to 19458 of 2016

W.P. No.11077 of 2017

MBM Charitable Educational Trust,
Rep. By its Managing Trustee,
K. Baskaran

.. Petitioner

Versus

1. Government of Puducherry,
Department of Hindu Religious Institutions
and Wakf,
Collector Office Building (3rd Floor),
Pettaiyan Chathiram,
Puducherry – 9.
2. The Commissioner,
Hindu Religious Institutions,
Puducherry.
3. The Revenue Court of Sub Collector
(Revenue),
Karaikal,
Puducherry Union Territory.



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4. The Special Officer,
Sri Rahunatha Perumal and Sri Vengadesa Perumal
Vagaiyara Devasthanam,
T.R. Pattinam,
Karaikal,
Puduchery Union Territory

5. K. Ramesh

6. K. Lakshmanan

7. M. Packrisamy @ Nasswan

.. Respondents

W.P. No.11077 of 2017 : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the third respondent in relation to the impugned order, dated 24.03.2017 vide OP. No.1/2016/Adangal/B3/2016/dated 28.09.2016 and quash the same as illegal and invalid.

C.R.P. (PD) No.3807 of 2016

1. K. Ramesh

2. K. Lakshmanan

3. M. Packrisamy @ Nasswan

.. Petitioners

Versus

1. MBM Charitable Educational Trust,
Rep. By its Managing Trustee,
K. Baskaran
No.58, 1st Cross, Nehru Nagar,
Karaikal and the plaintiff trust,
Having its registered address at
No.166, Balaji Illam,
Gandhi Salai,
T.R. Pattinam Village &
Commune Panchayat
Karaikal District Munsif

2. The Board of Trustee,
Sri Ragunatha Perumal

<https://www.mhc.tn.gov.in/judis>



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Sri Venkadesa Perumal,
Vagaiyara Devasthanam,
T.R. Pattinam,
Rep. By its present President,
S. Sundarrajan,
having office,
At Sri Venkatesa perumal
Vagaiyara Devasthanam
at T.R. Pattinam.

.. Respondents

W.P. No.11077 of 2017

For petitioner : Mr. T.S. Baskaran

For respondents : Mr.R. Natarajan for R5 to R7
Mr. V. Vasantha Kumar
AGP (P) for R1-R4

C.R.P(PD) No.3807 of 2016

For petitioners : Mr.R. Natarajan
For respondents : Mr.T. Sai Krishnan for R2
Mr.T.S. Baskaran for R1

COMMON ORDER

The brief facts of the case is required for filing these petitions before this Court and they are as follows :-

2. It is stated that originally, the revision petitioners were in possession and cultivating the lands in question and thereafter since they did not cultivate the lands, the property was handed over to the temple. Thus, the property in question belongs to Sri Ragunatha Perumal – Sri Venkadesa Perumal Vagaiyara Devasthanam, T.R. Pattinam, Karaikkal, While so, after getting approval from the Puducherry Government, it was decided to lease out the said property



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to the writ petitioner/Trust and objections if any, for the said decision was invited. Though objections were received, particularly from the private respondents in the writ petition, who were ex-cultivating tenants of the said land, after examination, it was found that the objections were not serious in nature and therefore, the same were ignored by the authorities. Afterwards, lease of the subject land was granted in favour of the writ petitioner/Trust for a period of 2 ½ years, initially, during the year 2013. It is further stated that the writ petitioner/Trust paid Rs.4,00,000/- as an advance for the said leased property and rent of Rs.1,000/-p.m. was fixed and the same was paid regularly to the said temple. At this juncture, the private respondents in the writ petition attempted to interfere with the possession of the leased out property of the writ petitioner / Trust. The writ petitioner therefore filed a suit for bare injunction in O.S. No.425 of 2013 before the District Munsif Court, Karaikal in which, an order of interim injunction was granted on 24.10.2013 in I.A. No.544 of 2013 in O.S. No.425 of 2013 against the respondents therein. After quite some time, the writ petitioner/Trust obtained planning permission from the authorities and a construction was put up in the leased property and the said construction is meant for running a School. Subsequently, after following the due procedures contemplated under law, the lease was extended for a period of 19 years.



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3. On the other hand, the aggrieved parties in I.A. No.544 of 2013, preferred a Civil Miscellaneous Appeal viz., C.M.A. No.3 of 2014 on the file of District Court, Karaikal and the same was dismissed on 29.07.2016. Thereafter, the 2nd respondent, based on the directions issued by this Court on 26.02.2016 in W.P. No.7065 of 2016, which was earlier filed by the petitioner therein, who is the 7th respondent in the instant writ petition, issued the Proceedings dated 18.05.2016 stating that the petitioner therein was not having legal right to protect the possession of the subject land and hence the proceedings of the 2nd respondent held against the private respondents in writ petition, though certain observations made in respect of the leased land. Such being the position, the 1st revision petitioner filed Original Petition before the 3rd respondent seeking for restoration of tenancy for the subject land and in the said O.P. the temple was arrayed as a respondent. Consequent to which, shockingly, the 3rd respondent passed the Proceedings dated 24.03.2017, thereby the Board of Trustees of the said Temple were directed to surrender the disputed land before the Government immediately, which will be later restored to the appropriate cultivating tenant as per the procedures contemplated under Section 13 of Pondicherry Cultivating Tenant Protection Act, 1970. Aggrieved over the impugned Proceedings, dated 24.03.2017 of the 3rd respondent, the petitioner/Trust has filed this writ petition viz., W.P. No.11077 of 2017. On the other hand, challenging the judgment and decree,



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dated 29.07.2016 passed in C.M.A. No.3 of 2014, referred to supra this Civil Revision Petition has been filed by the petitioners/cultivating tenants/private respondents in writ petition viz., W.P. No.11077 of 2017.

4. Since the subject matter of the writ petition and the civil revision petition revolves around the same land, both these petitions are taken up together for final disposal.

5. Learned counsel for the writ petitioner submitted that the land-in-question was leased out to the petitioner after paying due considerations and subsequently, the lease period was also extended for further 19 years after following the due procedures contemplated under law. He further submitted that apart from the advance amount of Rs.4,00,000/- + rent of Rs.1,000/- p.m., earlier paid by the writ petitioner/trust, they have paid the revised rate of rent as well as advance to the temple at the time of extension of lease. He also submitted that the petitioner/Trust has constructed a building and running a school in the said building, thus they have spent huge sum of money for the said construction and the said fact was known to the revision petitioners. When that be so, the 3rd respondent/revenue authority has passed the impugned Proceedings, dated 24.03.2017, thereby directed the Board of Trustees of the said Temple to surrender the disputed land before the Government



immediately, which would cause detrimental to the petitioner Trust. Further, he submitted that the petitioner/Trust has filed a suit for bare injunction in O.S. No.425 of 2013 before the District Munsif Court, Karaikal and interim injunction was obtained by them in their favour. He also submitted that the disputed land is a barren land and prior to sanction of lease in their favour, no cultivation activities were carried on in the said land for a long number of years.

6. The learned counsel further submitted that due procedures contemplated under law were followed while granting lease as well renewal of lease, but all of a sudden, without hearing the petitioner/Trust in the said Original Petition filed by the erstwhile cultivating tenants, the impugned proceedings have been issued by the 3rd respondent, which is bad in law. Hence, the impugned proceedings passed by the 3rd respondent is in violation of principles of natural justice. Therefore, he prays for issuance of appropriate directions in this regard.

7. Learned counsel for the revision petitioners also submitted that originally Mannappan was the cultivating tenant and after his demise, the 7th respondent in the writ petition, who is the only legal heir of Mannappan inherited the right of cultivating tenancy. He vehemently denied that without following the provisions of the Puducherry cultivating tenants protection Act, 1970, the subject land, where the original cultivating tenant was Mannappan,



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the Board of Trustees of the said temple/2nd respondent in C.R.P. in conspiracy with some third parties entered into a lease agreement in favour of the writ petitioner/Trust and the same is illegal. Further he submitted that an ex-parte injunction was obtained by the writ petitioner/Trust in I.A. No.544 of 2013 in O.S. No.425 of 2013 before the District Munsif Court, Karaikal, which is unsustainable and without considering the said fact and without application of mind, the same was confirmed in C.M.A. No.3 of 2024 on 29.07.2016, which is arbitrary. In view of the above, he prays for issuance of appropriate directions.

8. Learned Additional Government Pleader appearing for the official respondents in W.P. No.11077 of 2017 reiterating the contents of the counter affidavit submitted that the disputed land belongs to the temple and as such it does not come under the ambit of Puducherry Cultivating Tenant Protection Act, 1970. More so, he submitted that the land in question is a barren land and cannot be utilised for agricultural purposes. More particularly, he drew the attention of this Court to paragraph No.14 of the counter affidavit filed by the 2nd respondent and submitted that as per Section 25(1) of the Pondicherry Hindu Religious Institutions Act, 1972, the lease of the property belonging to the temples will come under the purview of the H.R & C.E. Department and after getting proper approval from the Commissioner, who is the custodian of the lands and after inviting objections from the general public, the disputed



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land was leased out to the writ petitioner, initially for a period of 2 ½ years in the year 2013. Hence, he prays for directions from this Court in the above regard.

9. Heard the submissions made by the learned counsel for the respective parties.

10. It is not in dispute that the disputed land was taken on lease by the writ petitioner and a construction was made in which the writ petitioner/Trust is running a school. As far as the contentions of the writ petitioner-Trust and the private respondents, there are several disputed question of fact involved and therefore, the parties can agitate their claim only in the suit viz., O.S. No.425 of 2013, which is pending before the District Munsif Court, Karaikal. In other words, such disputes cannot be resolved by this Court under Article 226 of the Constitution of India. However, the interim order granted by the trial Court, confirmed by the appellate Court is subject to result of Civil Suit, without being influenced by the order passed by this Court, the trial Court is directed to dispose the suit as expeditiously as possible.

11. Be that as it may. However, this Court is of the view that without hearing the writ petitioner, the impugned proceedings, dated 28.09.2016 was



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issued by the 3rd respondent, which amounts to violation of principles of natural justice. However, this Court finds no material with regard to tenancy rights claimed by the revision petitioner and it is clear that the auction / notification for lease of the disputed property was conducted in a hasty manner and as such it is not in terms and all is not well.

12. For the aforesaid reasonings, this Court is inclined to issue direction to the 1st respondent to conduct a detailed enquiry with regard to alienation of the subject property and pass orders after providing opportunity to the interested parties, as expeditiously as possible. Further liberty is granted to the 1st respondent to proceed further with the property, if the same is not in accordance with Pondicherry Hindu Religious Act.

13. With the aforesaid directions, both writ petition as well as Civil Revision Petition are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

11.09.2024

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
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To

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M.DHANDAPANI, J.

vsi2

5. The Managing Trustee
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