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W.P. No. 31376 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2024

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 31376 of 2022

and

W.M.P. Nos. 30820, 30821 and 30823 of 2022

C.Susila

... Petitioner

-VS-

1. The Commissioner,
Hindu Religious and Charitable Endowments (HR & CE),
Uthmar Gandhi Salai, Nungambakkam,
Chennai – 600034.
2. The Joint Commissioner,
Hindu Religious and Charitable Endowments (HR & CE),
Kancheepuram, Kancheepuram District.
3. The Executive Officer,
Arulmigu Gunamthanatheswar Temple,
Office at Arulmigu Chitraputhara Swamy Temple,
Periya Kancheepuram, Kancheepuram District.

4. S.Natarajan

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the concerned records in proceedings in No. nil dated 11.08.2022 pertaining to the 'General Auction' conducted by the Second Respondent herein and to quash the same.



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For Petitioner : Mr. M.Arumugam
For Respondents : Mr. K.Karthikeyan,
Government Advocate (for R1 to R3)
No appearance (for R4)

ORDER

Heard Mr. M.Arumugam, Learned Counsel for the Petitioner and Mr. K.Karthikeyan, Learned Government Advocate appearing for the First to Third Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. There is no representation for the Fourth Respondent when the matter is called at 03.46 p.m. today.

3. The Writ Petition has been filed challenging the auction for lease in respect of agricultural lands belonging to the Temple of the Third Respondent held on 11.08.2022 said to have been carried out without following due process of law as contemplated under Sections 34-A and 34-B of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. It is the case of the Petitioner that she is in occupation of the the said property after the death of her husband, viz., Chandiran, in the year 2022, and had been cultivating in that property.



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According to the Respondents, as the Petitioner and other legal heirs of the said Chandran failed to pay the rental dues, the property was brought for fresh lease under the proceedings dated 11.08.2022, which is challenged in this Writ Petition.

4. This Court at the time of admission on 24.11.2022 had passed the following order:-

“3. Since it is reported that the auction had already taken place on 11.08.2022 and the property had been leased to the Fourth Respondent, who is the highest bidder, the same shall be subject to the result of the Writ Petition. In such circumstances, the Fourth Respondent shall keep accounts of the income received from the property and submit monthly reports to the Third Respondent in that regard, which shall be produced before the Court whenever required.”

5. The Third Respondent has filed Counter-Affidavit dated 02.01.2024 in which it has been stated as follows:-

“5. I humbly submit that, the averments in the affidavit are hereby denied and the Petitioner is put to strict proof of the same,



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except that those are specifically admitted herein. The land to an extent of 25 acres 53 cents in Survey Number 24, in Orakkattupettai Village, belongs to this temple. Out of the above extent of land, an extent of Acres 15 and 60 cents, was leased to one Chandran, who is the husband of the petitioner, on 16.10.2002 for the Fasli year 1412 for a sum of Rs.35,000/-.

6. *I humbly submit that, from the Fasli year 1413, the land was leased to him, the lease amount was also subsequently increased and he was doing agricultural activities in the said land. The said Chandran, had committed default in payment of rent and at the end of the fasli year 1431, the total due payable by the said Chandran, comes to a tune of Rs.1,48,565/-. On many occasions, the temple has asked him to pay the due amount, but the said Chandran, did not come forward to pay the due amount.*

7. *I humbly submit that, after the death of the Chandran, his wife, the petitioner herein and his son, were doing agriculture in the above said land. They had also failed to pay the lease dues. Since, they didn't pay the lease amount, it was decided to lease*



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out the land on public auction for the Fasil Year 1432 and in this regard on 28.07.2022 a resolution was passed by the Fit Person of the temple to call for auction on 11.08.2022, for the above said land. Hence, on 28.07.2022, advertisement was issued calling for auction on 11.08.2022 for the above said land to an extent of Acres 15 and 60 cents.

8. *I humbly submit that, as per the order of the Joint Commissioner, HR & CE, Kanchipuram vide his proceedings in A.Thi.Mu.No. 8506/2022/A3 dated 10.08.2022, auction for the above said land of 15 Acres and 60 cents was conducted on 11.08.2022 in the presence of the Executive Officer of the temple, Village People, VAO of the Village, the Panchayat President and Deputy President and also the Executive Officer of Arulmighu Kailasnathar and Dhatchnamoorthi Temple, Govindavadi.*

9. *I humbly submit that, in the public auction conducted on 11.08.2022, totally ten persons had participated and they have paid Rs.500/- each as deposit amount. Since, the petitioner is a defaulter, as per auction condition – 1, she was not allowed to*



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participate in the auction. But on behalf of the petitioner, three persons had participated in the public auction conducted on 11.08.2022, by paying the deposit amount. The petitioner and her son were also present at the time of conducting auction.

10. I humbly submit that, the 4th respondent had quoted highest bid amount of Rs.1,22,000/- for the above said land. He had paid the entire amount to the temple and official receipts No. 194/11.08.2022 was also issued to him. After conducting the auction, the petitioner had sought one month time to harvest the crop in the land and the fourth respondent herein had also accepted for the same. Hence, this petitioner is no way aggrieved and had not incurred any loss as alleged by her.

11. I humbly submit that, the petitioner is liable to pay due amount of Rs.1,48,565/- for the Fasli year 1431. The auction was conducted in accordance with law by following the procedure. The auction notice was published by fixing in the Village Administrative Office and the auction was not conducted immediately as alleged by the petitioner.



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12. *I humbly submit that, at time of admission of this Writ Petition this Hon'ble Court directed to produce the details of the income received by the 4th respondent every month. Hence, the 3rd respondent vide letter dated 07.12.2022 to the respondent has sought the details of monthly income received in the land that was auctioned to the 4th respondent. The 4th respondent vide reply letter dated 11.10.2023 has replied that due to shortfall of rain, he could not do agriculture in the lands, hence it is not possible for him to provide the correct details of the income derived from the land."*

The period of lease in terms of the impugned proceedings dated 11.08.2022 has come to end on 10.08.2023 after the filing of the Writ Petition, but the Fourth Respondent has also not been able to make use of the property. In view of the same, nothing remains for further consideration in the Writ Petition, but it would not preclude the Third Respondent from conducting fresh auction, and if the Petitioner is not disqualified and had made payment of all arrears due, she shall be entitled to participate in the same.



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WEB COPY In the result, the Writ Petition is disposed with the aforesaid observations.

Consequently, the connected Miscellaneous Petitions are closed. No costs.

03.01.2024

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 22.04.2024.

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To

1. The Commissioner,
Hindu Religious and Charitable Endowments (HR & CE),
Uthmar Gandhi Salai, Nungambakkam,
Chennai – 600034.
2. The Joint Commissioner,
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P.D. AUDIKESAVALU, J.

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