



W.P.No.13985 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.13985 of 2017

And

W.M.P.No.15199 of 2017

1.D.Palaniammal (Deceased)

2.M.Malliga

3.S.Thilagamani

(P2, P3 substituted as LR's of deceased
sole petitioner vide order dated
16.07.2021 made in WMP.1485/2021
in WP.13985/2017 by ASMJ)

... Petitioners

Vs.

1.The Assistant Commissioner
Hindu Religious and Charitable
Endowment Department,
Namakkal.

2.A/m.Rajakaruppannaswamy Temple
Rep. by the Executive Officer,
Kaliyanur Village,
Tiruchengode Taluk,
Namakkal District.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to
issue a Writ of Certiorarified Mandamus, calling for the records
pertaining to the impugned order made in Na.Ka.No.2523/2014/A6



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dated 24.05.2017 passed by the first respondent, quash the same and consequently forbear the respondents from in any way disturbing petitioner peaceful possession and enjoyment as the lease holder over the lands measuring 3.00 acres comprised in S.No.33/3A, Kaliyanur Village, Tiruchengode Taluk, Namakkal District.

For Petitioners : Mr.N.Manokaran

For Respondents : Mr.K.Karthikeyan for R1
Government Advocate (HR & CE)
Mr.B.Jaganathan for R2

O R D E R

This writ petition has been filed seeking issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order made in Na.Ka.No.2523/2014/A6 dated 24.05.2017 passed by the first respondent, quash the same and consequently forbear the respondents from in any way disturbing petitioner peaceful possession and enjoyment as the lease holder over the lands measuring 3.00 acres comprised in S.No.33/3A, Kaliyanur Village, Tiruchengode Taluk, Namakkal District.

2.The learned counsel appearing for the petitioners submitted



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that the second respondent Temple is the owner of the agricultural land measuring an extent of 4.41 punjai acres comprised in S.No.33/3A, Kaliyanur Village, Tiruchengode Taluk, Namakkal District. The deceased petitioner's husband was put in possession and enjoyment over an extent of 3.00 acres as a lessee in the year 1950 for the lease amount of Rs.230/- per annum and he died on 04.12.1986. Thereafter, the deceased petitioner was put in possession and enjoyment of the subject property and she was paying the lease to the second respondent besides remitting kist to the Government.

3.The learned counsel appearing for the petitioners further submitted that during October, 1995, the second respondent issued publication to grant lease in the public auction and the deceased petitioner filed suit in O.S.No.380 of 1995 on the file of the learned District Munsif Court, Tiruchengode for permanent injunction and an order of interim injunction was granted on 26.07.1996. Thereafter based on the plea taken by the then trustee of the second respondent denying his nexus with the second respondent Temple, the said suit was dismissed for default on 18.03.2003.



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4.The learned counsel appearing for the petitioners further submitted that on 09.07.2014, some persons tried to trespass into the subject property and hence the deceased petitioner filed suit in O.S.No.230 of 2014 on the file of the learned District Munsif Court, Tiruchengode for permanent injunction and the same is pending. The learned counsel further submitted that the respondents tried to evict the deceased petitioner and hence the deceased petitioner filed W.P.No.26999 of 2014 seeking direction to the respondents therein to fix fair rent and the said writ petition was disposed of on 11.04.2017, pursuant to which, the first respondent passed the impugned order rejecting her request to fix fair rent and directed the deceased petitioner to participate in the auction to be conducted for grant of lease.

5.The learned counsel appearing for the petitioners further submitted that during the pendency of the writ petition, the petitioner who filed the writ petition passed away and her legal heirs are substituted as petitioners 2 and 3 and further submitted that the deceased petitioner was in possession and enjoyment of the subject property right from the year 1950, however, without considering the



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said fact and trying to conduct public auction is not sustainable one.

6.The learned Government Advocate (HR & CE) appearing for the first respondent submitted that the subject property is a Temple land and mere pendency of the suit for permanent injunction will not deprive the rights of the respondent for conducting public auction for grant of lease.

7.Heard the arguments advanced on either side and perused the materials available on record.

8.Admittedly, the subject property is a Temple land. Though the petitioners claim that they are in possession of the subject property for a long time and the deceased petitioner has filed suit for permanent injunction and the same is pending, mere pendency of the suit for permanent injunction will not deprive the rights of the respondent for conducting public auction for grant of lease.

9.In view of the above, this Court is not inclined to grant the relief sought for in this writ petition. The respondents are directed to



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conduct public auction for grant of lease. If the petitioners 2 and 3/ legal heirs of the deceased petitioner want to participate in the public auction, they are at liberty to participate in the public auction. The respondents are at liberty to claim damages from the petitioners 2 and 3.

10.This writ petition is accordingly dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

02.09.2024

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

To

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Hindu Religious and Charitable
Endowment Department,
Namakkal.
- 2.A/m.Rajakaruppannaswamy Temple
Rep. by the Executive Officer,
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