



W.P.No.34669 of 2019

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2024

CORAM

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

W.P.No.34669 of 2019

and

WMP.Nos.35427 & 35428 of 2019

1. V.Nandakumari
2. V.Kalaivani
3. V.Dhanasekar
4. V.Baskar
5. V.Pramila
- ...Petitioners

Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
Hindu Religious and Charitable Endowment Department,
St. Fort George, Chennai-9.
2. The Commissioner,
HR & CE Department,
119, Uthamar Gandhi Road,
Nungambakkam, Chennai-34.
3. The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
119, Uthamar Gandhi Road,
Nungambakkam, Chennai-34.



W.P.No.34669 of 2019

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4. The Executive Officer,
Egambaraeeswarar Temple,
Aminjikarai, Chennai-29.

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order in RC No.14744/2013/A2 passed by the 3rd respondent dated 04.03.2016 and quash the same, consequently forbear the respondents from in any manner interfering with the possession of the petitioners in the property at Old No.232/1, P.H.Road, Aminjikarai, Chennai.

For Petitioners : Mr.S.Prabakaran, Senior Counsel
for Mr.S.Concious Elango

For Respondents : Mr.NRR.Arun Natarajan, Spl.GP, for R1-3
: Mr.S.D.Ramalingam, for R4

ORDER

This Writ petition has been filed seeking quashment of the impugned order in RC No.14744/2013/A2 passed by the 3rd respondent dated 04.03.2016 and to consequently forbear the respondents from in any manner interfering with the possession of the petitioners in the property at Old No.232/1, P.H.Road, Aminjikarai, Chennai.



W.P.No.34669 of 2019

WEB COPY

2. The case of the petitioners is that, the petitioners are in possession of the property comprised in S.No.70/5, situated at Old No.232/1, P.H.Road, Aminjikarai, Chennai along with several other persons. Since, the Government passed an order in favour of the temple, vide G.O.Ms.No.679 of 1958 (Revenue) dated 20.02.1958, G.O.Ms.No.349 (Revenue) dated 13.08.1966 and G.O.Ms.No.3493 Revenue Department dated 13.12.1963, deciding to assign the subject land in favour of the temple, challenging the same, Writ petitions in W.P.Nos.295 to 299 of 1964 came to be filed before this Court and this Court, vide order dated 11.04.1967, allowed the said petitions, aggrieved by which, the temple filed Writ appeals in W.A.Nos.155 to 159 of 1967 and the Hon'ble Division Bench of this Court, vide order dated 17.01.1973 fixed the monthly rent at Rs.2/- per ground. Subsequently, for non payment of rent, the respondents issued an enquiry notice dated 04.03.2016 under Section 78(2) of the HR & CE Act in the name of dead persons. Challenging the same, the petitioners have come up with this Writ petition.



W.P.No.34669 of 2019

3. Though very many grounds have been raised, the learned Senior counsel for the petitioners fairly submitted that to show their bona fide the petitioners are ready to pay the fair amount that may be fixed by this Court.

4. Per contra, the learned counsel appearing for the respective respondents submitted that, though notice was issued against the dead persons, however, one Vasudevan died recently and at the time of issuance of notice, the said Vasudevan was very much alive and arrears of rent comes to around Rs.1,59,86,541/-. Further, on behalf of the petitioners' predecessors, one Dhanasekaran appeared before the authority, pursuant to which, the impugned notice came to be passed. However, till date, the arrears of rent was not paid to the temple. Accordingly, he prayed for appropriate orders.

5. Heard learned counsel on either side and perused the materials available on record.

6. Admittedly, the impugned notice was issued as against the dead persons. Though it is alleged that one Vasudevan was alive at the time of



W.P.No.34669 of 2019

issuance of the impugned notice, however, it is stated that the said Vasudevan also died recently and no notice can be maintained as against the dead person and on the sole ground, this Court is inclined to set aside the impugned order.

7. However, at the same time, considering the fact that the Division Bench of this Court already fixed a monthly rent of Rs.2/- per ground in the year 1973 and the said amount was paid by the petitioners' predecessors for a particular period of time and thereafter, no amount was paid by them, in order to strike a balance in between the parties, this Court, directs the petitioners to pay a sum of Rs.20,00,000/- (Rupees Twenty Lakhs only) within a period of four weeks from the date of receipt of a copy of this order to the temple. Further as an interim measure, the petitioners are directed to pay a monthly rent of Rs.50,000/- per month on or before 7th of every English calendar month, failing which, the respondents are at liberty to evict the petitioners, after following the due process of law. Further, the respondents are directed to fix a fair rent as per the existing G.O. and guidelines within a period of four weeks from the date of payment of Rs.20,00,000/- made by the petitioners, after hearing the petitioners and



W.P.No.34669 of 2019

aggrieved persons, if any.

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8. With the above observations and directions, this Writ petition stands allowed. No costs. Consequently, the connected Miscellaneous petitions are closed.

12.09.2024
(2/2)

skt

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

To

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6/8



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W.P.No.34669 of 2019

M.DHANDAPANI, J.

skt

W.P.No.34669 of 2019
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(2/2)

12.09.2024



W.P.No.34669 of 2019

WMP.No.35426 of 2019

in

W.P.No.34669 of 2019

M.DHANDAPANI, J.

In view of amendment to the Court fee rules, this petition is allowed, subject to payment of separate Court fee, within a period of two weeks, from the date of receipt of a copy of this order, failing which this order shall be applicable only to the first petitioner.

12.09.2024

(1/2)

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