



W.P(MD)Nos.421 to 429 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)Nos.421 to 429 of 2024

WMP(MD) Nos.

452,453,454,455,462,464,468,469,471,473,474,475,458,461,465,
467, 470,472 of 2024

W.P(MD)No.421 of 2024

G.Janaki

... Petitioner

Vs

- 1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
119, Uthamar Gandhi Salai,
Thousand Lights West,
Nungambakkam,
Chennai -34.
- 2.The Joint Commissioner,
Hindu Religious & Charitable Endowments Department,
Palayamkottai,
Tirunelveli District – 627 009.
- 3.The Assistant Commissioner,
Hindu Religious & Charitable Endowments Department,
Palayamkottai,
Tirunelveli District – 627 009.



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4.The Executive Officer/Fit Person,
Arulmighu Chokkalingaswwamy Thirukovil,
Thiruvengadam,
Tenkasi District – 627 719.

5.The Tahsildar,
Tahsildar Office,
Thiruvengadam,
Tenkasi District – 627 719.

Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned order passed by the first respondent dated 29.09.2023 made in R.P.No.92 of 2021 and quash the same.

For Petitioners : Mr.P.Thiyagarajan
For R1 to R3 & R5 : Mr.P.Subba Raj
Special Government Pleader
For R4 : Mr.V.R.Shanmuganathan
Standing Counsel
(In all WPs)

COMMON ORDER

These writ petitions have been filed by the respective petitioners as against the orders passed by the Commissioner, HR & CE Department confirming the orders passed by the Joint Commissioner, HR & CE Department that the petitioners are the



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encroachers of the lands belong to Arulmighu Chokkalingaswamy Thirukovil, Thiruvengadam, Tenkasi District and the petitioners were directed to vacate from the subject properties and hand over the possession of the properties to the temple authorities on or before 09.01.2024.

2.Since these writ petitions are with regard to the issue with regard to the properties of Arulmighu Chokkalingaswamy Thirukovil, Thiruvengadam, Tenkasi District, these writ petitions are disposed of by this common order.

3.The case of the petitioners is that the temple authorities have initiated proceedings as against these writ petitioners under Section 78 of the HR & CE Act, treating them as encroachers of the temple lands in S.No.1240/2B, Thiruvengadam Village to an extent of 370 sq.ft, 4770 sq.ft, 270 sq.ft (Door No.97 C), 540 sq.ft, 2484 sq.ft, 409.50 sq.ft, 345 sq.ft, 10 cents, 2184 sq.ft



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and 2184 sq.ft respectively. As against the same, appeals preferred by the petitioners before the Commissioner of HR & CE Department were dismissed. Therefore, the petitioners have moved these writ petitions before this Court that they have valid Sale Deeds/Settlement Deeds in favour of them.

4.Considering the issue involved in these writ petitions and taking into consideration of the period of occupation of the subject properties by the petitioners and also considering the fact that the writ petitioners are doing some business for their livelihood in the subject properties for several years, this Court suggested the learned counsel to advice the petitioners to resolve this issue amicably.

5.In earlier occasion, when these writ petitions are taken up for hearing, the learned counsel appearing for the writ petitioners submitted that on their advice, all the writ petitioners herein have



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agreed to accept the right and title of the subject properties by Arulmighu Chokkalingaswamy Thirukovil, Thiruvengadam/ the fourth respondent herein and filed an affidavit of undertaking to that effect. In their affidavit of undertaking, the petitioners have agreed to pay a fair rent as decided by the committee appointed by the fourth respondent temple. For better appreciation, the relevant paragraph from the affidavit of undertaking filed by the petitioner in WP(MD) No.421 of 2024 is extracted as under:-

3.I submit that now I am admitting the right and title of the Arulmighu Chokkalingaswamy Thirukovil, Thiruvengadam with respect to the land at S.No.1240/2B, Thiruvengadam Village and willing to pay the reasonable ground rent to be fixed by the authorities for the extent of land, on which, the petitioner's building is constructed. Further, I hereby undertake to pay the ground rent to the fourth respondent temple periodically, without fail.

6.Considering the affidavit of undertaking filed by the petitioners, this Court has directed the fourth respondent temple to



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get written instructions on the possibility of treating the petitioners as tenants of the temple and to fix a fair rent.

7.The learned counsel for the fourth respondent temple has also produced a written instruction dated 04.02.2024, which he has received from the Joint Commissioner and submits that the temple authorities are prepared to accept the writ petitioners as their tenants for a period of less than five years. The learned counsel further submits that the immovable properties of the temple can be allotted only by way of conducting an auction as per Rule 2 of Religious Institutions (Lease of Immovable Property) Rules, 1963. However, on the suggestions made by this Court, the fourth respondent temple has come forward to accept the petitioners as their tenants for a period of less than five years.

8.In view of the above and recording the affidavit of undertaking filed by the petitioners and the written instruction of the



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temple authorities, these writ petitions are disposed of with the following directions:-

- i. The petitioners shall be considered as tenants of the Arulmighu Chokkalingaswamy Thirukovil, Thiruvengadam/ the fourth respondent and a fair rent shall be fixed for the properties, which are in occupation of the petitioners.
- ii. The Committee constituted under Rule 11 of the Religious Institutions (Lease of Immovable Property) Rules, 1963, shall fix a fair rent w.e.f. 01.01.2024, within a period of one month from the date of receipt of a copy of this order
- iii. The petitioners have to pay the fair rent as fixed by the temple authorities without any fail.



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- iv. The temple authorities shall permit the petitioners to occupy the subject properties for a period of four years and eleven months. Thereafter, the properties can be brought for an auction.
- v. The petitioners are also at liberty to participate in the auction to be conducted by the temple authorities.
- vi. In the event, if there is any default in rent, it is open to the respondents to initiate action against these petitioners under Section 78 of the HR & CE Act, 1951.

No costs. Consequently, connected Miscellaneous Petitions are closed.

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(2/2)

NCC:Yes/No
Index:Yes/No
Internet:Yes
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Common Order made in
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