



W.P(MD)No.2493 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.2493 of 2024

Thirupathi Venkadasamy.S

... Petitioner

Vs

- 1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Chennai.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Thoothukudi.
- 3.The Executive Officer,
Arulmigu Pooranadha Swamy Thirukovil,
Kovilpatti,
Thoothukudi.
- 4.The Chairman,
Board of Trustees,
Arulmigu Pooranadha Swamy Thirukovil,
Kovilpatti,
Thoothukudi.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 1st respondent to consider the representation of the petitioner



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dated 28.12.2023 and to grant the lease of land on the western side of the petitioners building to a breadth of about 3 feet to enjoy the same along with the strip of land which is the subject matter of the suit in O.S. No.89/1992 on the file of the District Munsif Court, Kovilpatti as per Rule 11 of the Religious Institutions (Lease of Immovable Property) Rules, 1963.

For Petitioner	: Mr.G.Prabhu Rajadurai
For R1 to R3	: Mr.P.Subba Raj Special Government Pleader
For R4	: Mr.V.R.Shamuganathan

ORDER

The petitioner is a Doctor by profession and he is running a Hospital, by name, "Sri Venkatetshwara clinic" in Door No.428/1, Main Road, Kovilpatti from the year 1976. The case of the petitioner is that there is a property belong to Arulmigu Pooranadha Swamy Thirukovil, Kovilpatti, Thoothukudi, adjacent to his Hospital. The petitioner is having six feet pathway to his Hospital. If the temple provides three more feet from the temple land, it will be convenient for the patients, who would visit the Hospital. He has also prepared to pay fair rent or the rent to be fixed by the temple administration for the subject land.



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2. The petitioner has made a representation to the temple authorities and filed a writ petition in W.P(MD) No. 24263 of 2023 for a Mandamus, directing the respondents to grant lease of the land measuring 3 feet on the western side of the petitioner's Hospital. In that writ petition, the learned Special Government Pleader has submitted that the properties of the temple can be leased out only by way of public auction and also after fixing fair rent by the Committee, as per Rule 2 of the Religious Institutions (Lease of Immovable Property) Rules, 1963. This Court, by order dated, 30.10.2023 has disposed of that writ petition with a liberty to the petitioner to work out his remedy before the Commissioner, HR & CE Department by submitting a representation for grant of lease of the subject land. Accordingly, the petitioner has submitted a representation to the Commissioner, HR & CE Department on 28.12.2023 and the same is still pending. Now the grievance of the petitioner is that pending the representation of the petitioner, the Commissioner has attempted to conduct public auction for the



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subject property. According to the petitioner, in the event, if the property is brought for an auction and leased out to some third party, his application would become infructuous and therefore, he requested for a Mandamus directing the first respondent Commissioner to consider his representation as expeditiously as possible preferably before the auction proposed to be conducted by the temple authorities.

3.Mr.V.R.Shanmuganathan, learned counsel takes notice for the respondent No.4 and submits that a proposal to conduct an auction has already been made before the Commissioner and after obtaining necessary permission from the Commissioner, they will proceed with the public auction. He further submits that the properties of the temple can be leased out only by way of public auction.

4.This Court considered the rival submissions made and also perused the materials placed on record.



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5.The petitioner, who is running a Hospital has approached this Court for a Mandamus directing the authorities of Arulmigu Pooranadha Swamy Thirukovil to lease out the land measuring three feet belongs to the temple, on the western side of the petitioner's building. The petitioner has already approached this Court and this Court directed the petitioner to work out his remedy before the Commissioner. The petitioner has submitted representation before the Commissioner that he is prepared to pay fair rent or the rent to be prescribed by the temple authorities. The representation submitted by the petitioner, dated 28.12.2023 is pending for consideration before the Commissioner. Now, the petitioner with an apprehension that if an auction is conducted by the temple authorities for the said land, his representation pending with the Commissioner would become infructuous. According to the temple authorities, they have taken a stand that they have sought for a permission from the Commissioner for conducting public auction. Once permission is granted, they would conduct auction and the



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petitioner can very well participate in the auction to be conducted.

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6.In view of the rival submissions made and also considering that the petitioner is running a Hospital and the representation of the petitioner, dated 28.12.2023 is pending with the Commissioner, HR & CE Department and taking into consideration of the fact that the petitioner is ready to pay fair rent or the rent to be prescribed by the temple authorities, this writ petition is disposed of with a direction to the Commissioner, HR & CE Department to take a decision on the petitioner's representation along with the proposal of the temple authorities for conducting auction, as expeditiously as possible, preferably within a period of six weeks from the date of receipt of a copy of this order. No costs.

07.02.2024

NCC: Yes/No
Index:Yes/No
Internet:Yes
vrn



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B.PUGALENDHI, J.

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Order made in
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