



W.P.(MD) No.14078 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

**W.P.(MD) No.14078 of 2024
and
W.M.P.(MD)Nos.12337 & 12338 of 2024**

C.S.Muthusamy

... Petitioner

Vs.

1.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Plot No.49, MSR Nagar,
Mullippadi Village,
Seelappadi Post,
Dindigul -5.

2.The Executive Officer,
Arulmigu Kalayana Narasingaperumal Temple,
Ramagiri,
Gujjiliambarai Taluk,
Dindigul.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of of Certiorari to call for the records of the impugned notice issued by the 2nd respondent on 10.06.2024 in so far as serial numbers 6 to 12 are concerned and quash the same as illegal.



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For petitioner : Mr.R.R.Kannan for
Mr.C.Guhaseelarupan
For respondents : Mr.P.T,Thiraviam
Government Advocate (Crl. Side)

ORDER

This Writ Petition is disposed of at the time of admission after hearing the learned counsel for the petitioner and learned Government Advocate (Crl. Side) for the respondents.

2. The petitioner is before this Court for the relief to quash the impugned notice dated 10.06.2024. The petitioner claims that the said notice was issued on 23.06.2024 and has, therefore, rushed to this Court by way of this Writ Petition by filing it on 25.06.2024.

3. By the impugned notice, the second respondent/Temple proposed to auction the rights over 81.22 acres of land in various survey numbers, which are in possession of the petitioner and also the few others.

4. It is the case of the petitioner that the petitioner is in possession of the



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property through his predecessors since 1887 and that the petitioner's family has been rendering service to the Temple viz, Masalgi and Thee Vatti Pidithal (தீ வட்டி பிடித்தல்).

5. It is submitted that the overwhelming records to show that the land was given to the ancestor of the petitioner as also others for the service, that they have been in possession since 1887. Therefore, the attempt of the second respondent/Temple to bring the property for being leased for a period of one year by virtue of the impugned notice is illegal, arbitrary and contrary to the rights of the petitioner.

6. That apart, it is submitted that similar notice was also issued on 11.11.2023 by the second respondent/Temple, which was dropped pursuant to the representation given by the petitioner on 27.11.2023.

7. The learned counsel for the petitioner has place reliance of extracts from the records viz., A-Register, Chitta, Adangal and Archives obtained by the petitioner from the Survey and Settlement Register of the said village.



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8. The learned Government Advocate (Crl. Side) for the respondents, on the other hand, submits that the petitioner has no locus to file this Writ Petition. It is submitted that the petitioner is an encroacher and therefore, there is no merits in this Writ Petition.

9. It is submitted that there are several orders of this Court, which mandates the respondents to take steps to retrieve the lands from the encroachers.

10. That apart, it is submitted that the submission of the petitioner that the petitioner is entitled to ryotwari patta in terms of Section 8(2)(ii) of the Tamil Minor Inam Abolition Act, 1963, cannot be countenanced as orders came to be passed by then Settlement Tahsildar No.II, Madurai-13, as early as 16.03.1986 in his proceedings bearing in S.R.1992 & 1993/N.I.Act/DGL/67.

11. It is submitted that it has been conclusively held in the said order as follows:

“5. From the evidence on record, I am satisfied that these are Iruvaram grants made for Tavasthan Service in the temple and the deity Sri Kalyana Narasingh Perumal, Ramagiri is entitled to patta under Section 8(2)(ii) of the Act



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through the Executive Officer of the temple. Ryotwari patta will issue accordingly under Section 11(2) of the Act.”

12. It is further submitted that it is not open for the petitioner to claim any rights under Section 8(2)(ii) of the Tamil Nadu Minor Inam Abolition Act, 1963.

13. Having considered the submissions made by the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) for the respondents, this Court is of the view that the temple cannot indirectly evict the persons, who are in possession of the property, even if such persons are encroacher of the temple property.

14. In case it is the case of the second respondent/Temple that the petitioner as also others are encroachers, the provisions under Section 78 of the TNHR&CE Act, 1959, due procedure has to be followed and in case the rights have to be auctioned, it has to be in accordance with the provisions of TNHR&CE Act, 1959 and the Rules made thereunder. None of the procedure prescribed in the Act has been followed by the second respondent/Temple.



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15. Hence, this Court is inclined to quash the impugned notice, which is proposed to bring the lease hold rights in the temple to auction on 02.07.2024. Liberty is given to the respondents to initiate appropriate proceedings against the petitioner in accordance with law without prejudice to the rights of the petitioner in the aforesaid proceedings.

This Writ Petition is allowed, with above directions. No costs.
Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes / No
apd

28.06.2024

To

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C.SARAVANAN, J.

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