



W.P.(MD) No.16974 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.07.2024

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THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD)No.16974 of 2024

A.Renganathan

... Petitioner

Vs.

1.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Dindigul.

2.The Executive Officer,
Hindu Religious and Charitable Endowment Department,
Arulmigu Vandikaruppana Swamy Thirukovil,
Thangammapatti,
Dindigul District.

... Respondent

Prayer.: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Mandamus by directing the respondents to consider and dispose of the petitioner's representation dated 05.07.2024 submitted so as to conduct the auction for granting the leasehold right with regard to the collection of Eri Kasu and Thattu Kasu and the collection of Parking Fee for the Fasli year 1434 at Arulmigu Vandikaruppanaswamy Thirukovil, situated at Thangammapatti, Dindigul District, as expeditiously as possible, within the time stipulation as prescribed by this Court.

For Petitioner

: Mr.R.Anand



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For R1

: Mr.P.T.Thiraviam
Government Advocate

For R2

: Mr.VR.Shanmuganathan
Standing Counsel

ORDER

This Writ Petition has been filed by the petitioner for a Mandamus to direct the respondents to dispose of his representation dated 05.07.2024, so as to conduct the auction for granting the leasehold right with regard to the collection of Eri Kasu and Thattu Kasu and the collection of Parking Fee for the Fasli Year 1434 in Arulmigu Vandikaruppanaswamy Thirukovil, situated at Thangammapatti, Dindigul District.

2. It appears that there are series of Writ Petitions in the background, and orders have been passed in those cases. Earlier, one Raja Boopathi and the petitioner had challenged the auction Notification and the auction conducted by the second respondent herein for the Fasli Year 1433 in W.P.(MD)Nos.19501 and 23246 of 2023, respectively. An interim order came to be passed by this Court on 27.09.2023 in the said Writ Petitions. Relevant portion of the order reads as under:-

"4. The Joint Commissioner shall appoint a



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person to collect both எறிகாசு and தட்டுகாசு for this pasali year 1432.

5. The learned counsel appearing for the petitioner submitted that for the 3rd item the respondents have let out for pasali years which will be until June only. However, the respondents have confirmed the lease until August, which is against the auction notice. The petitioner is at liberty to submit a petition before the Joint Commissioner and the Joint Commissioner shall take appropriate action for the same.

6. The auction was taken for the 3rd item is strictly directed to collect only the permitted fees. If it is brought notice of this Court that he is collecting over and above the permitted fee, appropriate action will be taken against him.

7. Post these matters, after one year."

3. Thereafter, sometime later, the Joint Commissioner had passed an order in O.A.No.50 of 2022 [formerly, O.A.No.7 of 2018] on 31.10.2023 recognizing the rights of the Pooja on Hereditaryship. This was *prima facie* contrary to Section 55(2) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 [hereinafter referred to as "the H.R. & C.E. Act"] and therefore, by an order dated 29.11.2023 in W.P.(MD)No. 28084 of 2023, this Court had granted an order of interim stay and had appointed the learned Standing Counsel for the second respondent herein as Amicus Curiae. The said Writ Petition is stated to be still pending.



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4. Since there was a violation of the order, the petitioner had also filed Contempt Petition in Cont.P.(MD)No.2667 of 2023 before this Court. An order came to be passed in the said Contempt Petition on 05.03.2024, wherein this Court had restrained the Poojaries, who were arrayed as respondents 4 to 10 in the Contempt Petition from entering the precincts of the Temple for collecting Eri Kasu and Thattu Kasu in the Temple as also from the National Highways and that two persons namely, Vaira Perumal and Chinnu were appointed to carry on the work of collecting Eri Kasu and Thattu Kasu. The Police Officials were also directed to provide necessary Police protection, if necessary.

5. The above said order has been challenged before a Division Bench of this Court in L.P.A.(MD)No.1 of 2024. A partial stay of the order has been granted insofar as the directions issued against the Poojaries. The said L.P.A. is stated to be pending. Thus, there are several proceedings that are still pending both before the Writ Court as well as before the Division Bench of this Court.

6. This Writ Petition is opposed by the learned Standing Counsel for the second respondent by citing the provisions of the Religious



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Institutions (Lease of Immovable Property) Rules, 1963. It is submitted that the petitioner as a Hereditary Trustee of the Temple is not co-operating with the second respondent for the conduct of auction. It is submitted that any exclusive right in favor of the petitioner or the petitioner's nominee would in derogation of the provisions of the Religious Institutions (Lease of Immovable Property) Rules, 1963.

7. By way of rejoinder, the learned counsel for the petitioner submits that the Poojaris of the Temple have been sabotaging the auction through cartelization among themselves, manipulating the proper collection of Thattu Kasu, Eri Kasu, and Parking Fees. This has ensured that there is no fair auction process, which compelled the petitioner to approach this Court earlier in W.P.(MD)No.28084 of 2023.

8. Having considered the submissions made by the learned counsel for the parties, I am of the view that the prayer of the petitioner to consider and dispose of his representation dated 05.07.2024 for conduct of the auction for grant of leasehold rights with regard to collection of Thattu Kasu, Eri Kasu, and Parking Fees for the Fasli Year 1434 in the Temple cannot be denied, as it would be in consonance with the



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requirements of the Religious Institutions (Lease of Immovable Property)

Rules, 1963.

9. The petitioner is not seeking for a positive direction for conferring such rights to him without an auction. Only such prayer would be against the provisions of the H.R. & C.E. Act and the above said Rules.

10. Therefore, this Writ Petition is allowed by directing the respondents to hold auctions strictly in accordance with the provisions of the Religious Institutions (Lease of Immovable Property) Rules, 1963. This exercise shall be carried out by the respondents as expeditiously as possible, preferably, within a period of four weeks from today.

11. It is open for the petitioner to ensure that there is proper participation from the Public and there is no cartelization in the auction. The petitioner is directed to co-operate with the second respondent. The second respondent may seek the assistance of the Superintendent of Police to deploy an adequate number of Police Personnel during the auction, if deemed necessary. No costs.

Index : Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order
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24.07.2024



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To

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Dindigul.
- 2.The Executive Officer,
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Arulmigu Vandikaruppana Swamy Thirukovil,
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C.SARAVANAN, J.

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