



W.P.(MD) No.17776 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

**W.P.(MD) No.17776 of 2024
and
W.M.P.(MD) No.15250 of 2024**

1.P.Murugesan

2.Anthoniraj

... Petitioners

/vs./

- 1.The Commissioner,
HR & CE Department,
Office of the Commissioner,
No.119, Uthamar Gandhi Road,
Nungambakkam,
Chennai 600 034.
- 2.The Joint Commissioner,
HR & CE Department,
Office of the Joint Commissioner,
Srinivasa Nagar,
Tiruvanaikoil,
Tiruchirapalli -5.
- 3.The Assistant Commissioner,
HR & CE Department,
Office of the Assistant Commissioner,



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Collectorate,
Perambalur.

4.A/M.Sri Thirumoolanatha Swamy Thirukovil,
rep. by its Executive Officer,
Poovalur, Lalgudi Taluk,
Trichy District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 4th respondent not to dispossess the petitioners from the property comprised in S.No. 430/2 and 233/2 admeasuring an extent of 5 Acres situated at Poovalur Village, Lalgudi Taluk, Trichy District except by due process of law.

For Petitioners : Mr.S.I.Muthiah

For R1 to R3 : Mr.P.Subbaraj
Special Government Pleader

For R4 : Mr.S.Chandrasekar

ORDER

The petitioners are before this Court for a Mandamus to direct the fourth respondent not to dispossess the petitioners from the property comprised in S.Nos. 430/2 and 233/2 admeasuring an extent of 5 Acres situated at Poovalur Village, Lalgudi Taluk, Trichy District except by due process of law.



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2.It is submitted that the petitioners have been recognized as cultivating tenants under the provisions of the Tamil Nadu Public Trusts (Regulation of Administration of Agricultural Lands) Act, 1961. It is submitted that the petitioners have been in possession of the aforesaid lands since 2009 and have been regularly cultivating the land, which has been acknowledged in the receipts given by the fourth respondent temple.

3.It is further submitted that the Revenue Court has also recognized the petitioners as cultivating tenants under the provisions of the aforesaid Act, in terms of the order dated 26.10.2016 bearing Ref.No.Ni.Vaa.Ku.Manu.01/2016. It is submitted that in the aforesaid proceeding, the fourth respondent temple was the first respondent for fixation of fair rent under Section 26 of the aforesaid Act.

4.The writ petition is opposed by the learned Special Government Pleader for the respondents 1 to 3 on the ground that the petitioners were merely a licensee.



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5.The learned counsel for the fourth respondent temple would draw attention to the receipts filed by the petitioners, wherein the rights were auctioned for license for the Fasli Years and no agreement has been executed as is contemplated under Section 21 of the aforesaid Act.

6.It is submitted that in the absence of a lease deed in terms of Section 21 of the Act, the petitioners cannot claim to be the cultivating tenants within the meaning of the aforesaid Act.

7.That apart, it is submitted that the petitioners have been in possession of 7.42 acres and that the rights in respect of 5 acres of land were auctioned on 02.07.2024, pursuant to an auction notice dated 22.06.2024. It is submitted that the land has been put in possession of the successful bidder, namely Selvendran and therefore, there is no merit in this writ petition.

8.I have considered the submissions made by the learned counsel for the petitioners, learned Special Government Pleader for the respondents 1 to 3 and the learned counsel for the fourth respondent.



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9.The order passed by the Revenue Court under Section 26 of the Act on 26.10.2016 bearing Ref.No.Ni.Vaa.Ku.Manu.01/2016 fixing the fair rent *ipso facto* would not amount to recognition of the rights of the petitioners as cultivating tenants in the absence of a lease deed under Section 21 of the Act. The temple has also been receiving license fee right from 2009 from the petitioners, which is admitted by the temple.

10.The disposition of the petitioners without notice and the auction held on 22.06.2024 are clearly in violation of principles of natural justice and without due process of law. If the petitioners have been in possession of the property, the auction for 5 acres ought not to have been made.

11.In any event, whether the petitioners were in possession of 5 acres of land immediately prior to 22.06.2024 or not is a disputed question of fact, which cannot be determined based on the receipts, which have been filed by the petitioners for some of the Faslies in this writ petition.



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12.The petitioners will have to agitate their rights before the civil Court.

Therefore, this Writ Petition is liable to be dismissed. It is open for the petitioners to workout the remedy before the civil Court. The fourth respondent is also directed to serve a copy of the auction notice to the petitioners forthwith.

13.With the above liberty, the Writ Petition stands dismissed. No costs.

Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
Internet : Yes / No
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31.07.2024
(2/2)

To

1.The Commissioner,
HR & CE Department,
Office of the Commissioner,
No.119, Uthamar Gandhi Road,
Nungambakkam,
Chennai 600 034.

2.The Joint Commissioner,
HR & CE Department,
Office of the Joint Commissioner,
Srinivasa Nagar,
Tiruvanaikoil,

6/8



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Tiruchirapalli -5.

3.The Assistant Commissioner,
HR & CE Department,
Office of the Assistant Commissioner,
Collectorate,
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C.SARAVANAN, J.

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