



W.P.(MD)No.20456 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.09.2024

CORAM:

**THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR,
ACTING CHIEF JUSTICE
AND
THE HON'BLE MR JUSTICE R.VIJAYAKUMAR**

**W.P.(MD)No.20456 of 2024
WMP(MD)No.17352 of 2024**

1.M.Muruganpandi
2.P.SriRengan
3.P.Sulochana

... Petitioners

vs.

- 1.The State of Tamil Nadu,
Represented by the
Additional Chief Secretary to Government,
Tourism Department.
- 2.The Commissioner,
Hindu Religious and Charitable Endowments Department,
No.119, Uthamargandhi Salai,
Nungambakkam, Chennai-600 035.
- 3.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
No.119, Uthamargandhi Salai,
Nungambakkam, Chennai-600 034.



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4.The Joint Commissioner / Executive Officer,
Arulmighu Thandayuthapani Swami Thirukovil,
Palani, Dindigul District.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus forbearing the respondents from in any way interfering with the running of business by the petitioners at Western Shop Nos.3, 4 and 5, situated at Dhandapani Station Complex, Palani, Dindigul District belonging to the 4th respondent temple without following the due process established under law.

For Petitioner : Mr.Ajmal Khan, Senior Counsel
for M/s.Ajmal Associates

For Respondents : Mr.Veerakathiravan, Addl. Advocate General
assisted by
Mr.N.Satheesh Kumar,
Additional Government Pleader
for R1 to R3
Mr.R.Bharanitharan for R4

ORDER

[Order of the Court was made by *D.KRISHNAKUMAR, ACJ.*]

This Writ Petition has been filed for a Mandamus forbearing the respondents from in anyway interfering with the running of business by the petitioners at Western Shop Nos.3, 4 and 5, situated at Dhandapani Station Complex, Palani, Dindigul District belonging to the 4th respondent temple without following the due process established under law.

2. The learned Senior Counsel for the petitioners would submit that



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originally the petitioners are the lessees of shops under the Devasthanam Board and they have been paying rents regularly till July 2024, whereas the lease for the shops expired during July 2018 and thereafter, it was not renewed. While that being so, the 4th respondent has threatened the petitioners to evict from the shops under their occupation. The learned Senior Counsel for the petitioners would further submit that the 4th respondent has no jurisdiction to evict the lawful tenants from the shop premises and the Assistant Commissioner alone has power to initiate eviction process, that too only when the lessee has violated the terms and conditions of lease and when the petitioners enquired the 4th respondent, they were informed that eviction process is being taken in compliance of the order dated 23.02.2024 passed by the Hon'ble Supreme Court in SLP(C) No.11225 to 11256 of 2021. According to the learned Senior Counsel for the petitioners, the shops under occupation of the petitioners were already closed on their own and they are not running any commercial activities as of now and therefore, they have filed the instant writ petition seeking the aforesaid reliefs.

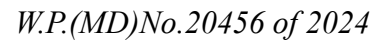
3. Mr.R.Bharanidharan, learned Standing Counsel for the Devasthanam Board has strongly objected to the submission of the learned Senior Counsel for



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the petitioners and submitted that originally 71 shops were leased to tenants by the Devasthanam Board, out of which shop owners numbering 51 have approached the Hon'ble Supreme Court challenging the judgment and order dated 22.03.2021 passed in a batch of writ petitions initiated by the tenants wherein the Division Bench of this Court while affirming the impugned action, directed the tenants to handover vacant and peaceful possession of the premises individually occupied by each one of the tenants to the landlord. The Hon'ble Supreme Court had disposed of the Special Leave petitions on the mutually agreed terms by the parties vide order dated 23.02.2024 and granted time till July, 2024 for vacating from the shops.

4. The learned Standing Counsel for the Devasthanam Board has further submitted that the petitioners herein have not approached the Hon'ble Supreme Court as against the eviction action taken by the Devasthanam Board and as per the directions of the Hon'ble Supreme Court, time was granted till July 2024 and thereafter, immediately action has been taken for eviction and they have voluntarily handed over possession of the shops to the Devasthanam Board and in view of the above, the petitioners have also handed over possession of the shops



5. Heard the learned counsel for the parties and perused the materials on record.

6. A Division Bench of this Court in W.P.(MD) No.17889, 18047 to 18049 and 19393 to 19394 of 2013 dated 10.02.2014 has prohibited commercial activities in the mountain path and it is not open to any authority, be it a Devasthanam Board or the Government or the District Administration or the Local Body to grant permission for carrying out any commercial activity in the Giriveedhi. This Court has also reiterated the same in its various earlier orders passed in Cont.P.(MD) No.1671 of 2018 and when such being the position, the petitioners cannot seek permission for running the shops / commercial activities in Giriveedhi.

7. It is also informed to this Court that the buildings in which the aforesaid



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shops of the petitioners are located are concerned, no Building Planning approval has been granted by the Municipality, Palani. Therefore, the learned Senior Counsel for the Municipality, Palani undertakes that if there is no building planning approval in respect of the shops in question are concerned, notice will be served to the Devasthanam Board and if there is any deviation, necessary action will be taken in accordance with law.

8. Admittedly the petitioners are lessees of the shops belonging to the Devasthanam Board. In the light of the aforesaid submission of the learned Senior Counsel for the Palani Municipality, it is for the Devasthanam Board either to demolish the offending constructions or seek for regularization as per the procedure contemplated under law. The petitioners have not produced any material to show that the building planning permission has been obtained for the shops in question. It is also admitted that the lease period for the shops had already expired during the year 2018 and thereafter, it is not been renewed. That apart, similarly placed persons have already approached the Hon'ble Supreme Court and they were granted time to handover vacant possession till July, 2024 and in compliance of the said order, 51 shop owners have already handed over



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vacant possession to the Devasthanam Board. The petitioners, who are similarly placed, have waited all along and continue to watch the entire proceedings and continued to enjoy the possession of shops till 30.07.2024 based on the directions of the Hon'ble Supreme Court in the case of similarly placed persons and only after commencing the eviction proceedings have woke up and filed the instant writ petition with delay. The act of the petitioners in simply watching all along the entire process attracts the Doctrine of Fence Sitters and laches and delays and/or the acquiescence, would be a valid ground to dismiss their claim in the light of the decision of the Hon'ble Supreme Court in *State of Uttar Pradesh and Ors. Vs. Arvind Kumar Srivastava & Ors., [(2015) 1 SCC 347]*. In such circumstances, the prayer sought for by the petitioners cannot be considered.

9. At this juncture, the learned Senior Counsel for the petitioners informed that if there is any advance amount lying with the Devasthanam Board, based on the application submitted by the petitioners, the request for refund of the advance amount shall be considered by the Devasthanam Board and necessary orders may be passed as per the terms and conditions of the lease agreement.



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10. This Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is dismissed.

(D.K.K., ACJ.) (R.V., J.)
10.09.2024

Intex : Yes/No

Internet : Yes/No

Jvm

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