



W.P.(MD) No.20727 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.20727 of 2023

and

W.M.P(MD) No.17150 of 2023

M.Shellayee

... Petitioner

Vs.

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

2.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Trichy-5.

3.The Executive Officer,
A/m.Sedal Mariamman Thirukovil,
Beemanagar, Trichy-1.

4.The President,
Bharathiyar Makkal Nala Sangam,
Dheerannagar, Regn.NO.57/2017
Thanthai Periyar Salai,
Trichy

Represented by its President

K.Marudhamuthu

... Respondents

(R4 is impleaded vide Court order dated 28.03.2023
in WMP(MD) No.24211 of 2023)



W.P.(MD) No.20727 of 2023

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the respondents to receive the lease amount from the petitioner in respect of the land situated in Survey No.85/9 of an extent of Acre 1 Cents 32 and in survey No.87/5 of an extent of cents 42 and in toto Acre 1 cents 74 in Solanganallur Village, Srirangam Taluk, Trichy District and to issue receipt for the same and not to take any coercive steps to interfere into our possession and enjoyment of the land without following due process of law.

For Petitioner : Mr.M.Karthikeya Venkitachalapathy

For R1 & R2 : Mr.P.Subbaraj
Special Government Pleader

For R3 : Mr.V.Chandra Sekar

For R4 : Mr.B.Jameel Arasu

ORDER

The petitioner has filed this writ petition for a mandamus directing the respondents to receive the lease amount from the petitioner in respect of the land in S.Nos.85/9 and 87/5 situated in Solanganallur Village, Srirangam Taluk, Trichy District and to issue receipt for the same and not to take any coercive steps to interfere into her possession and enjoyment of the land.



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2. The learned counsel for the petitioner submitted that the petitioner claims that she is a lessee of the temple lands in Survey No. 85/9 to an extent of 1 acre 32 cents and in Survey No.87/5 to an extent of 42 cents in Solanganallur Village Srirangam Taluk, Trichy district. The said lands are in possession of the petitioner's family from the year 1949 and after the demise of the petitioner's father, this petitioner is cultivating the land. The petitioner was also paying the lease amount regularly to the temple and the temple has also issued receipts for the lease amount paid. From the year 2020, the respondent temple has refused to receive the lease amount without any valid reasons. He further submits that he petitioner is prepared to pay the fair rent as prescribed by the respondent temple.

3. The learned counsel appearing for the respondents 1 and 2 and the learned counsel for the third respondent submits that the petitioner was never recognized as a lessee. However, inadvertently receipts were issued. Even according to the petitioner his father was lessee of this land and the petitioner has not substantiated the same with any documents. This petitioner is an encroacher and there is no agriculture activity in the



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said lands. It is a vacant land situated in a prime place surrounded by residential area. There is no scope for agricultural activity also.

4.The learned counsel appearing for the fourth respondent submits that one Bharathiyar Makkal Nala Sangam is running a weekly Market in the said lands and they are in possession of the said properties continuously and using the same for the welfare of the residents. The petitioner herein is not at all in possession and enjoyment of the said property at any point of time and has not produced any piece of paper for her possession.

5.This Court considered the rival submissions made on either side.

6.The petitioner has not substantiated her case that she is doing agricultural activity in the said land. Though the petitioner claims that her father has been recognized as a lessee in the year 1949, except some receipts issued by the respondent temple, the lease deed has not been placed before this Court. These receipts, according to the learned counsel for the respondents, are inadvertently issued by some staff. In the



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absence of any document, the petitioner cannot claim a right on the properties. Since the respondents have acknowledged the petitioner's presence in the said properties by issuing the receipts, the respondent temple is at liberty to initiate proceedings under Section 78 of HR&CE Act as against the petitioner and to take possession of the properties. The Bharathiyar Makkal Nala Sangam, functioning in the adjacent residential area also, claims that they are using this lands as weekly market and that too for a period of seven years. Therefore, the Bharathiyar Makkal Nala Sangam has to pay the damage and occupation to the temple. The temple is at liberty to claim damage from the Bharathiyar Makkal Nala Sangam. Further the properties shall be subjected for public action and the Bharathiyar Makkal Nala Sangam as well as the petitioner are at liberty to participate in the public auction and to take the property. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

28.03.2024

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



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B.PUGALENDHI,J

cp

To

- 1.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Trichy.
- 2.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Trichy-5.

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