



W.P(MD)No.21645 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.21645 of 2023 and
WMP(MD) Nos.18052 & 18053 of 2023

Vallinayagi

... Petitioner

Vs

- 1.The Commissioner,
Hindu Religious and Charitable Department,
Chennai.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Department,
Trichy.
- 3.The Assistant Commissioner,
Hindu Religious and Charitable Department,
Perambalur.
- 4.The Managing Trustee,
Arulmighu Kailasanathar Temple,
Kannanur,
Thuraiyur,
Trichy District.

... Respondents



W.P(MD)No.21645 of 2023

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the impugned order dated 25.07.2023 passed by the 1st respondent in R.P. No.539 of 2022 /D2 and the consequential impugned notice in Na.Ka. No.2815-1/2021/A5 dated 21.08.2023 passed by the 3rd respondent and quash the same as illegal.

For Petitioner	: Mr.K.Sivabalan
For R1 to R3	: Mr.P.Subba Raj Special Government Pleader
For R4	: Mr.G.Mathavan

ORDER

Challenging the order passed by the Commissioner, HR & CE Department/the first respondent in the revision petition filed by the petitioner in R.P.No.539 of 2022 and the subsequent eviction notice dated 21.08.2023, this writ petition is filed.

2.The petitioner's husband was cultivating a land in Survey Nos.368/4, 6,8,9 to an extent of 2 acres 72 cents, situated at Kannanur Village, Thuraiyur Taluk, Trichy District., which belongs to Arulmighu Kailasanathar Temple, Trichy/the fourth respondent herein. After the demise of her husband, the petitioner is cultivating



W.P(MD)No.21645 of 2023

the land. While so, a notice dated 28.10.2022 has been sent by the HR & CE Department to the petitioner to vacate the subject land. On 21.08.2023, another notice has been sent by the Department, directing the petitioner to vacate the land and hand over the possession of the land to the temple authorities. Challenging the same, the petitioner has filed a revision petition before the Commissioner, HR & CE Department and the same was dismissed by order dated 25.07.2023. Therefore, the petitioner is before this Court.

3.The learned counsel appearing for the petitioner submits that the respondent temple has denied to receive the rent from the petitioner from the year 2012 and thereafter, they have initiated a proceedings under Section 78(2) of the HR & CE Act, in and by which, the petitioner was declared as an encroacher and in pursuant to the same, an eviction notice dated 04.09.2023 was issued to the petitioner. The respondents have claimed a sum of Rs.12,60,864/- as damages for use and occupation of the land.



W.P(MD)No.21645 of 2023

WEB COPY

Therefore, the petitioner has handed over the land to the temple administration. Thereafter, the temple administration has subjected the property for public auction and in the public auction, the property has been leased out to Rs.7,500/- per year. According to the learned counsel, the petitioner was previously paying the rent at the rate of Rs.5000/- per year. In the event, if the Department fixes the rent as Rs.10,000/-, the petitioner would have paid it. Evicting this petitioner from the property and subjecting the property for public auction and leasing out for a sum of Rs.7,500/- to another person, that too, when the petitioner is prepared to pay Rs.10,000/- as rent, is not fair on the part of the respondents.

4.The learned Special Government Pleader appearing for the respondents submits that the respondent temple has not authorized the petitioner as a lessee and treating this petitioner as an encroacher, the proceedings under Section 78 of the HR & CE Act has been initiated as against the petitioner. Therefore, this writ petition is liable to be dismissed.



W.P(MD)No.21645 of 2023

WEB COPY

5.This Court considered the rival submissions made and also perused the materials placed on record.

6.The petitioner claims that after the demise of her husband, she was cultivating the land, which belongs to the temple. However, by treating the petitioner as an encroacher, the Department has evicted the petitioner and subjected the property for an auction. Thereafter, it was leased out to Rs.7,500/- per year. The petitioner claims that she was paying Rs.5,000/- as lease amount and she is also prepared to pay a sum of Rs.10,000/- per year towards the lease. On the side of the respondents, it is claimed that the receipts are in the name of the petitioner's husband and lease/licence are not transferable.

7.The temple administration has to protect the interest of the temple finding out the best possible rent for the temple property. Since the petitioner has now committed before this Court for a sum



W.P(MD)No.21645 of 2023

WEB COPY

of Rs.10,000/- as a lease amount for the temple property, the respondent temple shall consider the same.

8. Accordingly, this writ petition is disposed of with a direction to the temple authorities to grant lease of the property to the petitioner after obtaining an undertaking letter from the petitioner for another period of two years. No costs. Consequently, connected Miscellaneous petitions are closed.

28.03.2024

NCC: Yes/No

Index: Yes

Internet: Yes

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W.P(MD)No.21645 of 2023

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WEB COPY



W.P(MD)No.21645 of 2023

B.PUGALENDHI, J.

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