



W.P.(MD)No.22859 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.09.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)No.22859 of 2024

Perumalsamy

... Petitioner

Vs.

- 1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Door No.119, Uthamar Gandhi Road,
Nungambakkam,
Chennai.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Chokkikulam,
Madurai.
- 3.The Executive Officer,
Arulmighu Vaithiyanathasamy Temple,
Madavarvalagam,
Srivilliputtur,
Virudhunagar District.

4.Sevugan

5.M.Murugan

... Respondents



W.P.(MD)No.22859 of 2024

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the third respondent to consider the petitioner's representation dated 02.09.2024 and permit the petitioner to continue the lease in respect of the land for an extent of 4.75 acres Nanja land situated in Survey Nos.68/2B, 68/4B, 68/5, 68/6A, 68/6B, 68/6C, 68/2C, 68/3A, 68/3B, 68/4B, 69/2, Padikkasuvaithanpatti Village, Srivilliputtur Taluk, Virudhunagar District.

For Petitioner : Mr.K.Sudalaiyandi

For R-1 to R-3 : Mr.K.S.Selva Ganesan
Additional Government Pleader

ORDER

The present Writ Petition is filed praying for a Mandamus, directing the third respondent to consider the petitioner's representation dated 02.09.2024 and permit the petitioner to continue the lease in respect of the land situated in Survey Nos.68/2B, 68/4B, 68/5, 68/6A, 68/6B, 68/6C, 68/2C, 68/3A, 68/3B, 68/4B, 69/2, Padikkasuvaithanpatti Village, Srivilliputtur Taluk, Virudhunagar District, measuring 4.75 acres Nanja land. In view of the limited relief prayed for and proposed to be granted in the light of facts brought to the notice of this Court, notice to the respondents 4 and 5 is dispensed with.



W.P.(MD)No.22859 of 2024

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It is submitted by the learned counsel for the petitioner that the aforementioned lands were leased in favour of the petitioner's mother. After her demise, the petitioner and his brothers were enjoying the said land. The third respondent issued a public notice dated 26.07.2024 to lease various parcels of land including the subject land to the general public. It is submitted that prior to the auction notice, the third respondent did not issue any show cause notice to the petitioner. The auction was conducted on 13.08.2024 and lands were given on lease to respondents 4 and 5.

3. It is submitted that the petitioner submitted a representation dated 02.09.2024 to the respondent authorities to continue the lease and that the petitioner is ready to pay the lease amount fixed by the temple authorities. Since no action was taken, the present petition is filed.

4. It is further submitted by the learned counsel for the petitioner that even if the petitioner was to be treated as an encroacher, the respondent ought to follow the procedure set out in Section 78 of the Act, if he is to be evicted.



W.P.(MD)No.22859 of 2024

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5. The learned Additional Government Pleader for the respondents 1 to 3 would submit that the representation would be considered and orders would be passed thereon in accordance with law. That any action of eviction would be taken following the due process of law, in compliance with the provisions set out in Section 78 and 79 of HR & CE Act.

6. In view thereof, taking into consideration the facts and circumstances of the case and the limited relief sought for in this Writ Petition, there shall be a direction to the respondent authorities herein to consider the petitioner's representation dated 02.09.2024, on its own merits and pass appropriate orders in accordance with law, within a period of two weeks from the date of receipt of a copy of this order, after putting the petitioner, the respondents 4 and 5 and any other interested parties / stake holders on notice. It is made clear that this Court has not expressed any views with regard to the merits of the representation and it is open to the concerned respondent to consider the representation on its own merits and in accordance with law.



W.P.(MD)No.22859 of 2024

7. With the above direction, the Writ Petition stands disposed of. No costs.

25.09.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

To:

- 1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
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W.P.(MD)No.22859 of 2024

MOHAMMED SHAFFIQ, J.

Nsr

W.P.(MD)No.22859 of 2024

25.09.2024