



W.P.(MD).No.25381 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.10.2024

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THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

W.P.(MD).No.25381 of 2024

and

W.M.P.(MD).No.21534 of 2024

Umar Farook

... Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable Endowment Department,
Uthamar Gandhi Salai,
Nungambakkam,
Chennai – 600 034.

2.The Joint Commissioner/Executive Officer,
Arulmigu Dhandayuthapani Swamy Temple,
Palani,
Dindigul District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned public auction notice issued by the second respondent in his proceedings Na.Ka.No.8770/2024/C1 dated 26.09.2024 and quash the same as illegal, consequently directing the respondents to permit the petitioner to continue as cultivating tenant in respect of the property comprised in Survey No.702 measuring to an extent of 8 acre 45 cents situated at West Ayakudi Village, Palani Taluk, Dindigul District.



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For Petitioner : Mr.T.Leninkumar
For R-1 : Mr.K.S.Selvaganesan
Additional Government Pleader
For R-2 : Mr.R.Murali

ORDER

The present Writ Petition is filed challenging the impugned proceedings initiated under Section 78 of the Hindu Religious and Charitable Endowments Act on the premise that the petitioner is an encroacher within the meaning of Section 78 of the Act.

2. It is submitted by the learned counsel for the petitioner that the present proceedings is without jurisdiction, inasmuch as the petitioner is a cultivating tenant in terms of Section 2(5) of the Tamil Nadu Public Trusts (Regulation of Administration of Agricultural Lands) Act, 1962 (hereinafter referred to as 'Public Trusts Act') and thus, if at all the petitioner is to be evicted, the procedure contemplated under the Public Trusts Act ought to be followed.

3. On the other hand, the learned counsel for the respondents would submit that the petitioner is not a cultivating tenant, inasmuch as there is no cultivation and in any view, his tenancy is not in conformity with the provisions of the Public Trusts Act. Therefore, the petitioner may not have the protection



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nor may there be a compulsion for them to proceed under the Public Trusts Act.

Thus, the impugned proceedings invoking Section 78 of the Act was sought to be justified.

4. The question as to whether the petitioner is a cultivating tenant within the meaning of Public Trusts Act and in conformity thereof, is essentially a question of fact, which ought to be determined on the basis of evidence that may be produced.

5. In view thereof, this Court is inclined to pass the following order:

(i) The respondents/authorities are directed to decide as a preliminary issue, the status of the petitioner as to whether the petitioner is a cultivating tenant or otherwise.

(ii) It is open to the petitioner to put forth his objections along with relevant documentary evidence before the respondents/authorities within a period of two (2) weeks from the date of receipt of a copy of this order. If any such objections along with documentary evidence is submitted, the same shall be considered by the respondents/authorities and the question as to whether the petitioner is a cultivating tenant or otherwise shall be decided as a preliminary issue, after hearing the petitioner and any other interested parties/stake holders.



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(iii) It is open to the respondents/authorities to proceed under the Tamil Nadu Public Trusts (Regulation of Administration of Agricultural Lands) Act, if the petitioner is found to be a cultivating tenant and if the respondents/authorities are of the view that there is any violation and the petitioner ought to be vacated/evicted.

(iv) On the other hand, if the respondents/authorities are of the view that the petitioner is not a cultivating tenant within the meaning of the Tamil Nadu Public Trusts (Regulation of Administration of Agricultural Lands) Act, it is open to the respondents/authorities to continue with the proceedings initiated under Section 78 of the Act. It is made clear that no coercive proceedings shall be taken except in accordance with law.

6. Accordingly, the Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

25.10.2024

Index : Yes / No
Internet : Yes/ No
Lm

To
The Commissioner,
Hindu Religious and Charitable Endowment Department,
Uthamar Gandhi Salai,
Nungambakkam, Chennai – 600 034.

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MOHAMMED SHAFFIQ, J.

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