



W.P.(MD)No.46 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

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Arulmighu Sri Tharugavaneshwarar Alaiya
Adimanai Vadakaitharargal Nalasangam,
Rep. by its President,
S.Radhakrishnan,
S/o.Srinivasan,
Karur Main Road, Thirupparaithurai,
Srirangam Taluk, Trichy District.

... Petitioner

versus

1. The Commissioner,
HR&CE Department,
Office of the Commissioner,
No.119, Uthamar Gandhi Road,
Nungambakkam,
Chennai – 600 034.
2. The Joint Commissioner,
HR&CE Department,
Office of the Joint Commissioner,
Neelagiriswarar Thoppu, Tiruvanaikoil
Tiruchirappalli – 6.



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3. The Assistant Commissioner,
HR&CE Department,
Office of the Assistant Commissioner,
Neelagiriswarar Thoppu,
Tiruvanaikovil,
Tiruchirapalli – 6.

4. The Executive Officer,
Arulmighu Thirupparaithurai Kovil,
Thirupparaithurai Village,
Srirangam Taluk,
Trichy District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, to direct the respondents herein to regularize the tenancy of the petitioner Society's Members and fix fair ground rent for the fields occupied by its members in S.No.23/1, 23/3 and 20B4 situated in Thirupparayathurai Village, Srirangam Taluk, Trichy District, by considering the petitioner Society's representation dated 03.10.2023 within a time frame fixed by this Court.

For Petitioner : Mr.S.I.Muthiah



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For R1 to R3 : Mr.P.Subba Raj,
Special Government Pleader

For R4 : Mr.V.Chandrasekar

ORDER

The petitioner is a Society represented by its President. This writ petition has been filed for a Mandamus, directing the respondents to regularize the tenancy of the petitioner Society's members and fix a fair rent for the fields occupied by its members in S.No.23/1, 23/3 and 20B4 situated in Thirupparayathurai Village, Srirangam Taluk, Trichy District, by considering the representation dated 03.10.2023

2. The case of the petitioner is that the members of the Society were residing in the 4th respondent/Temple since time immemorial in Survey No.17/2A. The land in Survey No.17/2A was acquired by the Government for extension of NH67. Therefore, they were evicted from the said land and they were provided with alternative lands in Survey



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Nos.23/1, 23/3 and 20/B4 in Thirupparayathurai Village, Srirangam

Taluk, Trichy District. Now, the 4th respondent Temple has initiated a proceedings under Section 78 of HR&CE Act, treating them as encroachers and therefore, the petitioner Society has filed this writ petition to regularize the tenancy of its members.

3. The learned counsel appearing for the petitioner submits that the members of the Society have been permitted to stay in the above survey numbers by the District Collector, Trichy District and also by the 4th respondent Temple at the time of acquisition of land. The 4th respondent has failed to collect the rent and therefore, the members of the Society have also failed to pay the rent and now, they are treated as encroachers. If the respondents are willing to accept them as tenants, the members of the Society are also prepared to pay rent along with arrears. Therefore, he requested to regularize them as tenants.



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4. Mr.Subba Raj, learned Special Government Pleader, takes notice for the respondents 1 to 3. Mr.V.Chandrasekar, learned counsel, takes notice for the 4th respondent.

5. The learned counsel appearing for the 4th respondent submits that it is not correct to state that the 4th respondent has permitted the members of the petitioner Society to stay in the above said lands. According to him, there is no tenancy agreement between the 4th respondent and the petitioner Society. He has also raised preliminary objection with regard to the writ petition filed by the petitioner Society that it is not maintainable.

6. The learned counsel appearing for the 4th respondent further submits that if the members of the petitioner Society are willing to be the tenants of the 4th respondent/Temple, they can very well approach the 2nd respondent/the Joint Commissioner, HR&CE Department, Trichy, by filing an affidavit of undertaking that they are willing to



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accept the conditions as enumerated in G.O.Ms.No.340, Tamil Development Endowments and Information Department, dated 06.08.2007. He also produced a copy of the said G.O.Ms.No.340.

7. G.O.Ms.No.340 has been issued in the year 2017 to regularize the tenancy in the temple lands with the following conditions.

(i) if the persons have encroached upon the temple lands and put up some construction and they are residing there for more than 30 years, they are eligible to regularize their tenancy under G.O.

(ii) They have to accept the fair rent as prescribed in G.O.Ms.No. 353, Tamil Development Endowments and Information Department dated 04.06.1999.

(iii) They have to pay the rent from 01.07.1998 and the arrears of rent has to be paid in 12 equal monthly installments.

(iv) They have to be pay 10 months rent as donation to the concerned temple.



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8. According to the learned counsel for the 4th respondent/Temple, if the members of the petitioner Society have agreed the above terms and conditions as stipulated in G.O.Ms.No.340, then, they would be considered for regularization of their tenancy.

9. This Court considered the rival submissions made and perused the materials available on record.

10. The petitioner Society claims that its members are residing in the Temple lands for more than 30 years. Therefore, they are entitled for regularization as per the said G.O.Ms.No.340 dated 06.08.2007. The members of the petitioner Society are also prepared to file an affidavit of undertaking and also prepared to pay the rent as directed in G.O.Ms.No.340.

11. In view of the same, this writ petition is disposed of with liberty to the members of the petitioner Society to file an affidavit of



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undertaking as required under G.O.Ms.No.340 dated 06.08.2007, before the 2nd respondent/the Joint Commissioner, HR&CE Department, Trichy, within a period of two weeks from the date of receipt of a copy of this order. If the members of the petitioner Society fail to file an undertaking affidavit, the 2nd respondent shall proceed with the enquiry under Section 78 of the HR&CE Act and pass suitable orders. No costs.

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

To

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Chennai – 600 034.
2. The Joint Commissioner,
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B.PUGALENDHI, J.

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