



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 01.09.2024

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THE HON'BLE MR. JUSTICE M.DHANDAPANI

**W.P. No.26753 of 2017
and WMP. Nos.28490 and 28491 of 2018**

Palaniyappan

... Petitioner

-VS-

1. The Joint Commissioner
HR & CE Department,
Mayiladuthurai,
Nagapattinam District.

2. The Assistant Commissioner,
HR & CE Department,
Kumbakonam, Thanjavur District.

3. The Executive Officer,
Arulmighu Naganathaswami Thirukoil,
Thirukalacherry,
Tharangambadi Taluk,
Nagapattinam District.

4. Jayakumar

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari calling for the records of the first respondent in his proceedings Se.Mu.Na.Tha.6670/2017/E.1 dated 01.09.2017 and quash the same.

For Petitioner(s) : Mr. J.Srinivas
For Respondent(s) : Mr.K.Karthikeyan,
GA (HR & CE) RR1 & 2

ORDER



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The petitioner who is a rank encroacher in temple land, has filed this writ

petition seeking to quash the eviction order passed by the first respondent.

2. The petitioner claims himself to be a lease holder of the land to an extent of 30 cents of temple lands in S.Nos.199/1 and 200/1. One Arulmighu Naganatha swamy Thriukoil, Nagapattinam District. The third respondent vide impugned order dated 01.09.2017 directed the petitioner to vacate the property and hand over the vacant land to the temple authorities. The said order is put to challenge in this writ petition.

3. According to the petitioner, the trustees of the temple had entered into a lease agreement with him and he was allotted 30 cents of land. The petitioner has been in possession and enjoyment of the land and the said land by putting out a house of his own. According to the petitioner, he was also prompt in paying the rent and while so, the third respondent has passed an impugned order directing him to vacate and hand over the vacant land to the temple authorities. The petitioner has also stated in the affidavit that the original suit filed by the third respondent as against the 4th respondent in respect of the very same survey Nos. 199/1 and 200/1 was dismissed by the trial Court. Therefore, the third respondent was not justified in passing the impugned order.



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4. The respondents 1 & 3 have filed their counter in response to the affidavit filed by the petitioner. The first respondent, in its counter, has specifically stated that the very lease granted to the petitioner was illegal and the same was done by the erstwhile trustees of the temple without valid sanction of the competent authorities under Section 34 of the HR & CE Act. The petitioner is a rank trespasser and the small construction that he has put up is also illegal. The third respondent, in its counter, has stated that as the petitioner was away from the village for a very long time, taking advantage of the petitioners absence, the 4th respondent has trespassed into the petitioner's land and that is why the suit has been filed by the third respondent and the same was dismissed for non-joinder of necessary party. It is the case of the third respondent that the petitioner and 4th respondent jayakumar are trespassers in temple lands.

5. Having heard the learned counsel for the parties and perused the materials available on record.

6. This Court is of the view that the petitioner is not a valid lease holder since the very lease was entered by the erstwhile trustees in an illegal manner in violation of the relevant rules of HR & CE Act. Even admitting for the sake of



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arguments that the petitioner was a legal lease holder, when the rightful owner viz., the temple is in need of its land, the petitioner ought to vacate the lands and hand over the vacant land to the temple. Even according to the petitioner, he was in enjoyment of the land right from the year 1978. The temple authorities are completely justified in taking action to reclaim the lands belonging to the temple. This Court is of the view that no interference is called for in the action taken by the third respondent to retrieve the temple lands.

7. In the result, the writ petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

01.09.2025

Rli

To

1. The Joint Commissioner
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2. The Assistant Commissioner,
HR & CE Department,
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M.DHANDAPANI, J.

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