



WA(MD)Nos.110, 111 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.02.2026

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

AND

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WA(MD)Nos.110, 111 of 2022

and

CMP(MD)Nos.1129, 1130 of 2022

Kongu Educational Trust,
258-A, MG Road, Vaiyapuri Nagar,
Karur – 639 002.
Rep. by its Chairman
M.Nachimuthu

: Appellant in both appeals

Vs.

1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Nungambakkam High Road,
Chennai – 600 034.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Trichy Division,
Trichy.



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3.The Hereditary Trustee,
A/m Balasubramaniaswamy Temple,
Vennaimalai,
Karur Taluk and District.

4.The Executive Officer,
A/m Balasubramaniaswamy Temple,
Vennaimalai,
Karur Taluk and District.

: Respondents 1 to 4 in
both appeals

5.The District Registrar,
O/o.District Registrar,
Karur.

: R5 in WA(MD)No.111 of 2022

COMMON PRAYER: Writ Appeals filed under Clause 15 of the Letters Patent as against the common order dated 19.01.2022 made in WP(MD)Nos.17092 & 19582 of 2016.



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For Appellant : Mr.B.Saravanan,
Senior Counsel
for M/s.V.S.Usharani

For Respondents: Mr.P.Subbaraj,
Special Government Pleader
for R.1, R.2

Mr.A.K.Sriram,
Senior Counsel
for Mr.P.Aathimoola Pandian
for R.4

[In both appeals]

COMMON ORDER

Background:-

Kongu Educational Trust, the appellant herein, is in occupation of 7.81 Acres of land in S.No.269/A of Kadhapparai Village, Karur Taluk, which belongs to Arulmighu Balasubramani Temple, Vennaimalai. This temple is a public religious temple under the control of the HR and CE Department and administered by a Trustee and an Executive Officer appointed under section 45(1) of the HR and CE Act.



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2.The appellant has filed two writ petitions before this Court.

WP(MD)No.17092 of 2016 was filed as against the communication of the fourth respondent / Executive Officer of the Temple dated 02.12.2015 and 28.06.2016. WP(MD)No.19582 of 2016 was filed as against the proceedings of the Joint Committee and the consequent order passed by the Joint Commissioner dated 12.02.2015 fixing lease rent. These writ petitions were dismissed by a common order dated 19.01.2022 that this appellant, a sub lessee, cannot maintain the writ petitions and that the alleged sub lease is without any authority and against the provisions under Section 34 of the HR and CE Act. As against this common order dated 19.01.2022, these writ appeals are filed by the appellant.

3.The appellant Educational Trust is running a School at Kadhapparai Village, Karur Taluk and is using the temple's land as its playground. Apart from that, the Trust is also having a marriage hall and this temple's land is used for car parking. The appellant Trust admits that the subject



land is the land of the Temple and claims that they got the sub lease by way of a registered document dated 19.06.1995 from the legal heirs of one Ramasamy. The appellant trust claim that they have paid a sum of Rs. 1380/- towards the lease rent initially and Rs.1535/- from 2009 and it was increased to Rs.4130/- from 2010. The Joint Commissioner, by the order impugned in WP(MD)No.19582 of 2016, has increased the lease rent from Rs.4130/- to Rs.2,04,122/- per month. Therefore, the appellant has challenged this order of the Joint Commissioner fixing the rent by hiking 50 times of the rent which has already been fixed. The communication of the Executive Officer dated 02.12.2015 and 28.06.2016 were challenged in the other writ petition. Both were dismissed by common order dated 19.01.2022.

4.The primary contention of the appellant in both the writ petitions was that the lease rent has been fixed without issuing any notice to this appellant and therefore, the same needs to be set aside on the grounds of violation of principles of natural justice. Reference was made to the



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decision of this Court in *Arulmigu Angala Parameswari and*

Kasivishwanathaswami Temple Adimanaivael House Owners Association

v. State of Tamil Nadu [(2009) 6 CTC 512]. A further ground was taken that the lease rent was hiked by 50 times without considering the fact that the appellant Trust is running an educational institution.

5.The case of the appellant was negatived by the writ Court holding that this appellant cannot take advantage of the decision in *Angalaparameswari's* case, inasmuch as this appellant is not a tenant of the respondent Temple. There is no lease deed between the Temple and this appellant and even according to the appellant, this appellant has obtained this property by way of a sub lease from the legal heirs of one Ramasamy, a lessee of the Temple. The writ Court held that the legal heirs of late Ramasamy had no authority to sub-let this land to the appellant and that too for a period of thirty long years, *de hors* the provision under Section 34 of the HR and CE Act.



6.The writ Court further held that as per Section 34, there cannot be any lease for more than five years, even by the Temple without the permission of the Commissioner and even the Commissioner shall not accord sanction without the previous approval of the Government. In this case, the appellant claims sub lease from a lessee for thirty years, without any such sanction or approval and therefore, it is in violation of Section 34 of the HR CE Act. The lease deed itself is of null and void. In the absence of the status as a lessee, the appellant cannot take shelter under *Angalaparameswari's* case and as such, the writ Court has dismissed the petitions filed by the appellant.

Appellant's case:-

7.These writ appeals are also filed on the same ground that the rent has been increased by 50 times from Rs.4130/- per month to Rs.2,04,122/- per month, behind their back without any notice, in violation of principles of natural justice and in violation of the guidelines issued in *Angalaparameswari's* case. The appellant has also taken a ground that the



Temple itself has acknowledged their possession of the subject land by carrying out rent refixation previously and hence this can be considered to be a ratification of their sub lease.

8.Learned Senior Counsel for the appellant submitted that the Trustee of the Temple has recognized them as a tenant, revised the lease rent as Rs.1535/- in the year 2009 and as Rs.4130/- in the year 2010 and therefore, they have to be treated only as a tenant of the respondent Temple. It is further submitted that the appellant has obtained rights under the Transfer of Property Act 1882 as a tenant by suffrance and hence, they cannot be evicted from the subject land.

Stand of the respondents:-

9.Learned Counsel for the respondents objected the appeals that this appellant cannot take advantage of the orders in *Angalaparameswari's* case. This appellant is admittedly a sub lessee from the legal heirs of one



Ramasamy claiming to be a lessee of the Temple and that too, vide a lease deed for a period of thirty years, in violation of Section 34 of the HR CE Act. There cannot be any lease of a temple land more than a period of three years and if it is five years and above, it has to be sanctioned by the Commissioner, HR and CE. Admittedly, the lease has not been approved by the Commissioner and the appellant is not having any lease deed with the Temple. This demand of rent from the appellant by the third respondent / Trustee of the Temple in the year 2010 would not offer any right of lease to this appellant.

10.Heard the learned Counsel appearing for the respective parties and perused the materials placed on record.

11.The lease of immovable properties belonging to the Temple is governed by Section 34 (1) of the HR and CE Act and the same is usefully extracted as under:-



“34. Alienation of immovable trust property. – (1) Any exchange, sale or mortgage and any lease for a term exceeding five years of any immovable property, belonging to, or given or endowed for the purpose of, any religious institution shall be null and void unless it is sanctioned by the Commissioner as being necessary or beneficial to the institution :

Provided that before such sanction is accorded, the particulars relating to the proposed transaction shall be published in such manner as may be prescribed, inviting objections and suggestions with respect thereto; and all objections and suggestions received from the trustee or other persons having interest shall be duly consider by the Commissioner:

Provided further that the Commissioner shall not accord such sanction without the previous approval of the Government].”

12.The Government of Tamil Nadu has also formulated a Rule prescribing the procedures for lease of temple lands, namely 'The Religious Institutions (Lease of Immovable Property) Rules 1963'. Rule 2 mandates that the lease of immovable properties of religious institution shall be made only by public auction. However, this Rule has not been implemented strictly by the Department for the reasons best known to them.



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13. Admittedly, the subject land under occupation of this appellant is a land belonging to a religious institution and there is no lease to this appellant. The appellant has not obtained approval from the Commissioner, HR and CE as required under Section 34. As per the provision, any lease of temple property beyond 5 years made without such approval is null and void. Therefore, the alleged sub lease by way of a document dated 19.06.1995 has to be treated as null and void under Section 34 of the Act and as such, no rights can be said to have flowed to the appellant from such an instrument. The appellant, being an illegal occupant, cannot avail the principles laid out in *Angalaparameswari's case*. Further, neither the Act nor the prevailing Rules make any provision for the ratification of such a lease by way of fixation of rent as claimed by the writ appellant.

14. It would be pertinent to refer to the decision of this Court in *Arulmigu Agneeswara Swamigal v. G. Shanmugam* [2012 SCC OnLine Mad



513], wherein it was held that the lease rights have to be auctioned afresh

on the expiry of the lease period and there can be no automatic renewal of lease and the relevant portion is extracted as under:

"33. It is to be noted that lease of a property is a very valuable right and an implied surrender would not be readily inferred. Ordinarily, if the lease period has expired, then it has to be auctioned afresh. A lease cannot be renewed automatically, if it is expired. No document has been placed before the trial court by the Respondent/Defendant to the effect that he has surrendered possession of the Temple tank to and in favour of the Appellant/Plaintiff. To put it differently, there is no communication in the present case that the Respondent/Defendant has surrendered his fishery right in respect of the Appellant/Plaintiff's Temple tank even after the expiry of the original lease period."

Therefore, the ground taken by the writ appellant that there was ratification of the lease by way of fixation of lease rent cannot be accepted.

15. Further, a person can claim to be a tenant by suffrance only when they come into possession by way of lawful title and thereafter, they wrongfully continue the possession after the expiration of such title. In the



present case, the very instrument by which the appellant obtained lease is null and void and against the provisions of Section 34 of the HR and CE Act. They have not obtained possession of the subject land by way of lawful title. Hence, the claim of the writ appellant that they have obtained rights under the Transfer of Property Act 1882 cannot be accepted. Therefore, these writ appeals fail.

16. In this case, the writ petitions are pending from the year 2016 onwards and the Court, while entertaining the writ petitions, granted a blanket stay by order dated 09.09.2016 in WMP(MD)No.12401 of 2016. Thereafter, by order dated 21.09.2017, the writ Court directed the appellant to pay 50% of the arrears as on that day to be deposited. The appellant has deposited the said amount, but thereafter, they have not paid any lease rent amount. The writ petition was disposed of on 19.01.2022 and thereafter, writ appeals have been filed in the month of February, 2022. The Division Bench while entertaining the writ appeal has also passed an order that the interim direction which was in force during the pendency of the writ



petition shall operate during the pendency of the writ appeal also. In fact, the writ Court itself has recorded that this appellant was having arrears of Rs.1.5 Crore and that the proceedings under Section 78 of the HR and CE Act have also been kick started. Even then, the appellant has not paid any pie towards regular lease rent and the HR CE Department has also not taken any steps to list the appeal, vacate the interim order. They have not even filed any counter affidavit in these writ appeals till date.

17.The Temple is maintained by a Trustee and an Executive Officer. Due to their mismanagement, the lands belonging to Arulmighu Balasubramani Temple, Vennimalai, Karur to an extent of 507 Acres are still under encroachment. Valuable properties in the midst of Karur city worth about several 1000 crores are under encroachment and the HR and CE Department as well as the Trustee have not taken any steps to restore these properties. A devotee has approached this Court by way of a public interest litigation wherein this Court has passed an order in WP(MD)No.64 of 2018, dated 23.10.2019 directing the HR CE Department to restore the



temple properties by initiating appropriate action. This order has not been implemented and therefore, the devotee has filed a contempt application in Cont.P(MD)No.371 of 2024 and the same is pending before this Court. Statutory notice was issued to the contemnors. Even thereafter, actions were not taken to implement the orders of this Court in its entirety.

18.The Trustee of the Temple has remained *ex-parte* in the present writ petitions as well as in these writ appeals. The Executive Officer of the Temple has also remained silent by not filing any counter affidavit. However, a stand has been taken in the contempt petition in Cont.P(MD)No.371 of 2024 that in view of the pendency of these writ appeals, they were not in a position to proceed as against the encroachers in S.No.569/ A. Therefore, pursuant to the earlier orders of this Court, these writ appeals have also been listed before this Bench.



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19.Only after this Court pulled the officials, the HR and CE Department has filed a typed set of papers and produced a copy of the proceedings dated 11.04.2022 of the Joint Commissioner initiating action under Section 79-C of the HR and CE Act for the arrears of rent as on 28.02.2022 to an extent of Rs.1,40,01,505/-. They have also produced a photograph showing this land being used as a car parking for the marriage hall of the appellant trust in the backdrop of the pernicious marriage hall. When this Court raised a query, the respondents state that the rent of the marriage hall would be around Rs.10 Lakh per day and that they cannot maintain the marriage hall without this land, which is now used as a car parking. The appellant, without any authority, has managed to remain in possession based on a void lease deed from the year 1995 and has not even paid a meagre rent to the Temple.

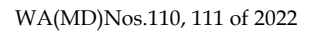
20.Considering the manner in which the temple properties has been maintained by the respondent temple, this Court verified with the learned



Counsel appearing for the Commissioner, HR and CE as to whether the HR and CE Department is having any database with regard to the number of lands belonging to the Temples, with its extent, details of lessees, lease period and rent. The learned Counsel who took time to get these instructions from the Commissioner, HR and CE has not furnished those details till the end of the hearing. Therefore, it appears that the HR and CE Department is not having any database and even if it is available, they are not having any inclination to publish the same in public domain, in their website, in order to provide undue favouritism to those who are in occupation with meagre rents.

21. Therefore, this Court, while dismissing the writ appeals, under *parens patriae* jurisdiction, issues the following directions:-

(i) The HR and CE Department is directed to publish the details about the temple lands along with the extent, period of lease, lessee details, lease amount, in their website which would be accessible to the devotees and the common public, so that, the persons who are interested in the properties shall also participate



(ii) The HR CE Department is expected to comply with the Act and Rules strictly and ensure that no properties are lying with the lessees beyond the period of five years as that of this case, without any approval from the Commissioner, HR and CE and also ensure that the properties are leased out only by way of public auction as provided under Rule 2 of the Religious Institutions (Lease of Immovable Property) Rules 1963.

(iii) The HR and CE Department shall ensure that the subject land involved in these writ appeals are recovered by following the directions of the Division Bench of this Court in WP(MD)No.64 of 2018 dated 23.10.2019 in the manner known to law.

There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

[P.V.,J.] [B.P.,J.]
27.02.2026

Index : Yes / No
Internet : Yes
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