

(1993) 01 MAD CK 0029

In the Madras High Court

Case No : Writ Petition No. 1393 of 1993

Muthu Saraswathi

APPELLANT

Vs

Commissioner, HR and CE, Administration Department,
Madras and another

RESPONDENT

Date of Decision : 22-01-1993

Acts Referred:

Constitution of India, 1950 — Article 14

Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 — Section 116(2),
34

Tamil Nadu Hindu Religious and Charitable Endowments Rules, 1960 — Rule 13, 14

Citation : AIR 1993 Mad 314

Hon'ble Judges : Bakthavatsalam, J

Bench : Single Bench

**Advocate : W.C. Thiruvengadam, for the Appellant; M.M. Sundaresh,
Government Advocate, for the Respondent**

Judgement

Bakthavatsalam, J.—This writ petition coming on for orders as to admission on this day upon perusing the petition and the affidavit filed in

support thereof and upon hearing the arguments of Mr. W. C. Thiruvengadam, Advocate for the petitioner, and of Mr. M. M. Sundaresh,

Government Advocate taking notice on behalf of the 1st respondent, the court made the following order :

In an auction held by the Executive Officer of Shri Nagareswarer Temple, Hosur, on 6-11-1992, the petitioner is the highest bidder for a shop for

a period of 3 years from 7-11-1992 to 6-11-1995, the rent being Rs. 150/- per month. When it has been sent to the Commissioner, 1st

respondent for approval, in view of Section 34 of Tamil Nadu Act 22 of 1959, the 1st respondent issued a notice to the petitioner on 28-12-1992

invoking his power under Rule 13 for the purpose of vetoing the lease granted to the petitioner. The notice was sent by the 1st respondent on 28-

12-1992 granting 2 days's time for the petitioner who is residing in Hosur, Dharmapuri District, to reply on or before 30-12-1992. The petitioner

has received the notice and also has sent a reply on 30-12-1992 by speed post and the acknowledgement has been produced before me.

However, the 1st respondent has passed an order on 31-12-1992 vetoing the lease granted to the petitioner under Rule 13 framed u/s 116(2) of

the Hindu Religious and Charitable Endowments Act, 1959. The 1st respondent has further ordered reduction of the shop. Aggrieved by this

order, the petitioner is before me.

2. Mr. W. C. Thiruvengadam, learned counsel for the petitioner contends that the 1st respondent has not given reasonable opportunity to the

petitioner, before exercising the veto power under Rule 13 of the Rules framed under the Act. According to the learned counsel, the notice itself

has been issued on 28-12-1992 from Madras and the petitioner has been asked to file objections on or before 30-12-1992. According to learned

counsel for the petitioner, this cannot be said to be a reasonable opportunity. Further, the learned counsel refers to Rule 13 of the Rules framed

and states that the 1st respondent shall have the power to veto such lease for reasons to be recorded in writing, after giving reasonable opportunity

to the party to make his representation. This has not been given, is the argument of Mr. Thiruvengadam, learned counsel for the petitioner.

3. Learned Government Advocate who takes notice, also is not able to defend the petitioner's case that the time given to the petitioner is not

reasonable.

4. Considering the arguments of Mr. Thiruvengadam, learned counsel for the petitioner and learned Government Advocate, one day cannot be said

by any stretch of imagination to be reasonable for any person to file objections. Obviously, the 1st respondent had in mind the limit fixed by the

Rules, i.e., 60 days within which the 1st respondent has to veto the auction; otherwise, it will be deemed to be confirmed under Rule 14 of the

Rules. At any rate, since I take the view that the impugned order cannot be sustained on the ground that it was been passed without giving

reasonable opportunity to the petitioner, the order has got to be set aside. The

other reason to set aside the order is that the impugned order states as if the petitioner has not made the representation. However, the learned counsel for the petitioner has produced before me, as I have already stated, the receipt of the speed post sent by her at 11:35 a.m. on 30-12-1992. So, the petitioner has taken the best efforts to make her presentation and it cannot be said that the petitioner has not made any representation at all.

5. In the result, the impugned order is set aside. The 1st respondent is directed to pass a well considered order, after considering the representation of the petitioner, which is said to have been made by the petitioner by speed post on 30-12-1992 and the 1st respondent is directed to pass an order afresh, within a period of one month from the date of receipt of a copy of this order. The writ petition is allowed with the above observations. However, there shall be no order as to costs.

6. Petition allowed.