(2012) 11 MAD CK 0329

In the Madras High Court

Case No : Writ Petition No. 4726 of 2012

S.B. Raju APPELLANT

Vs

Commissioner, Hindu Religious and Charitable Endowment (Admn.) Department and Others RESPONDENT

Date of Decision : 07-11-2012

Acts Referred:

Citation : (2013) 1 MLJ 45

Hon'ble Judges : D. Hariparanthaman, J

Bench : Single Bench

Advocate : G. Sugumaran, for the Appellant; R. Kannan, Government Advocate and S. Sounthar, for the Respondent

Final Decision : Dismissed

Judgement

D. Hariparanthaman, J.—The petitioner was granted lease in respect of 12 acres and 70 cents of land situate at Kathiramangalam in Sirkazhi Taluk of Nagapattinam District by the third respondent for a period of three years from 1.7.2008 to 30.6.2011 and the lease rent was fixed at the rate of Rs. 80,000/- per year. The first respondent passed the order dated 19.3.2009 directing the third respondent to cancel the lease, as no prior permission was obtained from the first respondent. Now the lease period itself is over. At this juncture, the first respondent issued the order dated 12.10.2011 directing the second respondent to cancel the lease granted to the petitioner and also to bring the land for public auction.

2. The petitioner has filed this writ petition to set aside the said order dated 12.10.2011 of the first respondent.

3. The first and second respondents have filed a counter affidavit refuting the allegations.

4. Heard both sides.

5. The lands are owned by the third respondent. The third respondent is governed by the provisions of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 and also the Religious Institutions (Lease of Immovable Property) Rules, 1963 (for short, "the Rules"). Rule 11 of the aforesaid Rules states that the institution, namely, the third respondent should have obtained permission from the first respondent-Commissioner for entering into the lease. Admittedly, no such permission was obtained by the third respondent. In any event, the lease period is now over. It is the case of the third respondent that the second respondent endorsed the action of the third respondent and sent for approval to the first respondent, but the first respondent refused to approve the action and issued the order dated 19.3.2009 directing the third respondent to cancel the lease. At this juncture, it is relevant to extract Rule 11 of the Rules, which reads thus:

11. Lease otherwise than by Public Auction.--The Commissioner as an application made to him by the executive authority of religious institution may permit the lease of any property or any right otherwise than by public auction, if he is satisfied that the interest of the institution will not suffer by dispensing with the public auction.

6. Rule 2 of the Rules also is relevant to decide the validity of the impugned order and the same is extracted hereunder:

2. Lease of Public Auction.--Lease of immovable property and rights belonging to a religious institution shall be made by public auction. The auction shall ordinarily be conducted in the place in which the property is situate or the rights exist.

7. Rule 2 makes it clear that the religious institution shall go for public auction in the case of lease of immovable properties. When the Rules are very clear, I do not find any infirmity in the impugned order. As stated above, the lease period is already over and the petitioner is not precluded from participating in the public auction. The properties are in the nature of public properties, as the same belonged to the religious institution. Hence, there should be every endeavour to get the maximum benefit to the institution. Only to get maximum benefit, Rule 2 contemplates public auction. The first respondent has simply directed the second respondent to hold public auction of the properties after cancelling the lease. In fact, the lease period is over and therefore, the third respondent could have no grievance. For the aforesaid reasons, I am of the view that the writ petition is liable to be dismissed and, accordingly, the same is dismissed. Consequently, M.P. No. 2 of 2012 is also dismissed. No costs.

