

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

Reserved on : 25.05.2017  
Pronounced on : 30.05.2017

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CORAM :

**THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN**

**W.P. (MD) Nos. 9420, 9421, 9422 & 9423 of 2017**  
**and**  
**W.M.P (MD) Nos. 7165, 7166, 7167 & 7168 of 2017**

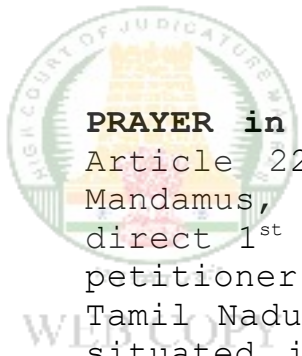
- |                |   |
|----------------|---|
| 1.V.Narayanan  | ..Petitioner in W.P.(MD)No.9420 of 2017 |
| 2.V.Jeyapandi  | ..Petitioner in W.P.(MD)No.9421 of 2017 |
| 3.P.Sankaravel | ..Petitioner in W.P.(MD)No.9422 of 2017 |
| 4.V.Subbammal  | ..Petitioner in W.P.(MD)No.9423 of 2017 |

Vs.

1. The Executive Engineer,  
Distribution,  
TANGEDCO, Valliyoor,  
Tirunelveli District.
2. The Village Administrative Officer,  
Kovilammalpuram Village,  
Mavadi Via, Nanguneri Taluk,  
Tirunelveli District.
3. The Executive Officer,  
Sri Thiruvazhutheswarar,  
Perianayagi Amman Devasthanam,  
Erwadi, Nanguneri Taluk,  
Tirunelveli District.

... Respondents in all WPs

**PRAYER in W.P.(MD)No.9420 of 2017:** Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 3<sup>rd</sup> respondent to issue NOC and further direct 1<sup>st</sup> respondent to provide electricity supply in the name of petitioner for agriculture purpose as per Regulation 27(2) of the Tamil Nadu Electricity Distribution Code to the petitioner's Well No.246, Savalikarankulam Village, Nanguneri Taluk, Tirunelveli District.



**PRAYER in W.P.(MD)No.9421 of 2017:** Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 3<sup>rd</sup> respondent to issue NOC and further direct 1<sup>st</sup> respondent to provide electricity supply in the name of petitioner for agriculture purpose as per Regulation 27(2) of the Tamil Nadu Electricity Distribution Code to the petitioner's Well situated in S.No.264, Savalikarankulam Village, Nanguneri Taluk, Tirunelveli District.

**PRAYER in W.P.(MD)No.9422 of 2017:** Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 3<sup>rd</sup> respondent to issue NOC and further direct 1<sup>st</sup> respondent to provide electricity supply in the name of petitioner for agriculture purpose as per Regulation 27(2) of the Tamil Nadu Electricity Distribution Code to the petitioner's Well situated in S.Nos.265 & 266, Savalikarankulam Village, Nanguneri Taluk, Tirunelveli District.

**PRAYER in W.P.(MD)No.9423 of 2017:** Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 3<sup>rd</sup> respondent to issue NOC and further direct 1<sup>st</sup> respondent to provide electricity supply in the name of petitioner for agriculture purpose as per Regulation 27(2) of the Tamil Nadu Electricity Distribution Code to the petitioner's Well situated in S.No.250, Savalikarankulam Village, Nanguneri Taluk, Tirunelveli District.

For Petitioner : Mr.H.Arumugam  
(in all WPs)

For Respondents : Mrs.S.Srimathy (for R1)  
(in all WPs)

Mrs.S.Bharathi (for R2)  
Government Advocate

Mr.K.Sathiya Singh (for R3)

### **COMMON ORDER**

The petitioners have come up with the present Writ Petitions, filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 3<sup>rd</sup> respondent to issue NOC and further directing the 1<sup>st</sup> respondent to provide electricity supply in the name of respective petitioner for agriculture purpose as per Regulation 27(2) of the Tamil Nadu Electricity Distribution Code to the petitioner's Well situated in S.No.246, Savalikarankulam Village, Nanguneri Taluk, Tirunelveli District, S.No.264, Savalikarankulam Village, Nanguneri Taluk, Tirunelveli District, S.No.265 & 266, Savalikarankulam Village, Nanguneri Taluk, Tirunelveli District, and S.No.250, Savalikarankulam Village, Nanguneri Taluk, Tirunelveli District, respectively.



2. Heard Mr.H.Arumugam, learned counsel for the petitioners, Mrs.S.Srimathy, learned Standing Counsel for the 1<sup>st</sup> respondent, Mrs.S.Bharathi, learned Government Advocate for the 2<sup>nd</sup> respondent and Mr.K.Sathya Singh, learned Standing Counsel for the 3<sup>rd</sup> respondent.

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3. The writ petitions are listed for hearing on 24-05-17 and posted today directing the counsel for the 3<sup>rd</sup> respondent to get instruction and accordingly on the instructions of the 3<sup>rd</sup> respondent and by consent of all, and considering that the issue involved in all the writ petitions is similar, the writ petition itself taken up and common order is passed.

4. The common case of all petitioners is that they are cultivating the land belong to the 3<sup>rd</sup> respondent Temple for more than 200 years by developing the barren land into agriculture land by digging Well. The 3<sup>rd</sup> respondent originally attempted to evict all the tenants, who were in possession of the land situated in the village stating that they are only trespassers and filed a suit in O.S.No.35/1951 on the file of the Sub-Court, Tirunelveli against all the cultivation tenants of the land situated in Savalikarankulam Village, for recovery of possession. The said suit was dismissed and as against that the 3<sup>rd</sup> respondent filed appeal in A.S.No.1113/1953 before this Hon'ble Court at Madras and the same was partly allowed holding that the Temple is the owner of the land and the tenants are having permanent tenancy and they shall not be evicted but the Temple can recover the 30% produce from harvest. Thus their possession as permanent cultivating tenants was already declared by this Court.

5. They find much difficult to cultivate the land without sufficient water for irrigation and due to failure of monsoon and agriculture operation could not be carried out successfully, resulting in loss of crops and damage. Even though they dig Well and Bore wells without electricity they are not in a position to irrigate water from Well and usage of oil motor cause much expensive than the harvest. As such they requested the 3<sup>rd</sup> respondent to issue NOC to get electricity connection to the Well but he did not turn up positively but issued a letter dated 13-04-17 asking to remit the arrears of rent of so many years and then only NOC could be issued. They also made application to the 1<sup>st</sup> respondent and he returned with a direction to obtain NOC and also get the signature of the 2<sup>nd</sup> respondent in the Application Form. The claim of the 3<sup>rd</sup> respondent is totally vague as no details provided and according to the petitioners they have paid the rent whenever cultivation was done and the period of non-payment is only for the non-cultivation period due to monsoon failure and under law the 3<sup>rd</sup> respondent is entitled to collect rent for the

period of cultivation alone. Even otherwise, the 3<sup>rd</sup> respondent is not entitled to direct to pay rent beyond the period of three years as the same is barred by law of limitation.

6. At that juncture request was made to the 2<sup>nd</sup> respondent to sign in the Application Form and to furnish the documents through their representation dated 19-04-17 and a legal notice on 28-04-17 but he refused at the instance of 3<sup>rd</sup> respondent. Since this Hon'ble Court has already declared them as permanent tenant the respondent arbitrarily refusing to sign in the application and to furnish the documents. Therefore, they have come forward with the petitions seeking the reliefs mentioned supra.

7. The learned counsel for the petitioner contended that in view of the letter dated 13-04-17 of the 3<sup>rd</sup> respondent directing the petitioners to pay entire arrears of rent for so many years for issuance of NOC to get electricity the issue involved in the writ petitions are in a narrow sense as to whether the 3<sup>rd</sup> respondent can direct to pay arrears of rent for many years without any particulars and beyond the period of three years provided under the law of limitation.

8. The learned counsel for petitioner heavily relied upon Section 19(3)(b) of the Tamil Nadu Public Trust (Regulation of Administration of Agricultural lands) Act, 1961 read with the proviso therein and contended that even in the eviction proceedings the authorized officer shall not direct the tenant to deposit such arrears of rent which became time barred under the law of limitation. He further relied upon Article 52 of the Limitation Act, 1963 and contended that the limitation provided for recovery of arrears of rent is 3 years when the arrears become due. As such the demand of the 3<sup>rd</sup> respondent towards of arrears of rent beyond the period of 3 is prohibited under law hence, it is illegal. He further contended that the 3<sup>rd</sup> respondent never initiated any proceedings for eviction or for collection of arrears of rent before the competent authority and as such the 3<sup>rd</sup> respondent is not entitled to take advantage of the situation and request to meet their illegal demand of arrears of rent.

9. Further, he argued if electricity is provided to the petitioners they can irrigate the land regularly and get the crops harvested without fail and in that event the Temple also will get the fair rent and thus acceding the request is most advantage of both the landlord and tenants for their regular income and to have agriculture operation without fail. But the 3<sup>rd</sup> respondent who never took any steps provided under law is now trying to make undue influence to pay the arrears of amount, which in fact there is no arrears as all the petitioners have paid the fair rent for the Fasali 1424 on 04-

05-17, Fasali 1425 on 26-07-16 and 18-08-16 and for Fasali 1426 on 18-05-17.

10. The learned counsel for the 3<sup>rd</sup> respondent, based upon the instruction obtained, submitted that it is for the petitioners to file the deposit petition before the authorized officer to pay the fair rent as per Section 19 mentioned above and the petitioners are in arrears for so many years and further the receipts produced by them is only for part payment of fasali year and in not in full. As per the judgment and decree of this Hon'ble Court, the tenants must inform the harvest one week in advance and pay the share of produce applicable as on date of cultivation deducting only 10% towards the development cost by them, however, they are not paying the rent regularly and from 2004 they have not paid the rent in full, except making partly payment for some years. Hence the 3<sup>rd</sup> respondent is justified in asking to deposit entire arrears.

11. I have considered the rival submissions of both the counsels.

12. This Court considered the submissions of both sides and perused the records and provision of law. There is no dispute that the petitioners are permanent cultivating tenants of the agricultural land, belongs to the 3<sup>rd</sup> respondent Temple. The Division of this Hon'ble Court in the judgment and decree passed in A.S.No.1113/1953 has declared that the 3<sup>rd</sup> respondent Temple is the landlord and the rights of the tenants are permanent tenancy and consequently held that Temple is entitled to 30% of the gross produce, which should be paid by the tenants by giving one week notice of harvest and the tenants cannot be evicted. This Court has further held that though as per the law, which was in force at that time the Temple is entitled to 40% of gross produce, passed a decree reducing 10% towards the land improvement cost spent by the tenant for development of land and digging Well and held that the Temple is entitled to 30% produce. Thus, there is no dispute considering the improvements made by the tenants on their own costs in the land to suit for agriculture operation 10% should be reduced towards improvement cost by the Tenants.

13. The only legal issue to be answered is whether the 3<sup>rd</sup> respondent is correct in demanding the arrears of rent beyond the period of limitation. Thus, this without going into the facts as to whether the rent was paid regularly and any failure of monsoon, resulting in failure of agriculture operation, but considering the fact that the petitioners have prepared to pay the rent for the 3 years period and according to them they have paid the same as on date and considering the submission of the learned counsel for the 3<sup>rd</sup> respondent that



part payment alone made by the petitioners and submission of petitioners counsel that if only part payment is made for any fasali year within 3 years they are prepared to pay the remaining amount the legal issue is taken up for consideration.

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14. To decide the issue of limitation it is useful to look into Section 19(3) of the Tamil Nadu Public Trust (Regulation of Administration of Agricultural lands) Act, 1961, which reads as follows:-

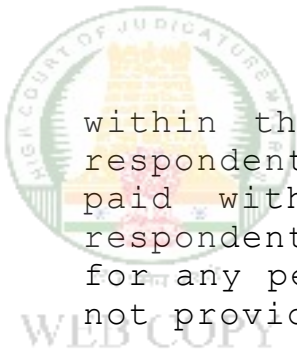
Section 19 (3) (a):- The trustee of every public trust seeking to evict a cultivating tenant falling under sub-section (1) shall, whether or not there is an order or decree of a Court for the eviction of such cultivating tenant, make an application to the authorized officer.

(b) On receipt of such application, the authorized officer shall, after giving reasonable opportunity to the trustee of the public trust and the cultivating tenant to make their representations, hold a summary enquiry into the matter and pass an order either allowing the application or dismissing it and in a case falling under clause (a) of sub-section (1) in which the cultivating tenant had not availed of the provisions contained in sub-section (2), the authorized officer may allow the cultivating tenant such time as he considers just and reasonable having regard to the relative circumstances of the public trust and the cultivating tenant for depositing the arrears of rent payable under this Act inclusive of such costs as he may direct. If the cultivating tenant deposits the sum as directed, he shall be deemed to have paid the rent under clause (b) of sub-section (2). If the cultivating tenant fails to deposit the sum as directed, the authorized officer shall pass an order for eviction.

Provided that the authorized officer shall not direct the cultivating tenant to deposit such arrears of rent as have become time barred under any law of limitation for the time being in force.

15. The above provision makes it clear that even the landlord cannot evict the tenant if the tenant deposits the arrears of rent pursuant to the direction of the authorized officer. The Proviso clearly says in a negative language that the authorized officer shall not direct the cultivating tenant to deposit such arrears of rent as have become time barred under any law of limitation for the time being in force. Thus, the 3<sup>rd</sup> respondent is entitled to collect the arrears of rent





within the period of limitation provided. Further, the 3<sup>rd</sup> respondent cannot evict a tenant if the arrears of rent is paid within the period of limitation, while so, the 3<sup>rd</sup> respondent cannot make a demand of claiming arrears of rent for any period beyond the limitation. That too such a power is not provided under any of the provisions of the Act.

16. Now the question is what is the period of limitation provided for claiming arrears of rent under the Limitation Act. Article 52 of the Limitation provides three years for claiming arrears of rent, which reads as follows:-

| Description of Suit              | Period of Limitation | Time from which period begins to run |
|----------------------------------|----------------------|--------------------------------------|
| Article 52 - For arrears of rent | Three years          | When the arrears become due          |

Therefore, the 3<sup>rd</sup> respondent is entitled to claim arrears of rent only for the past 3 years. According to the petitioners, they have paid the 3 years amount and produced the receipt also. But the counsel for the 3<sup>rd</sup> respondent submits that the receipts are only in respect of part amount of the fasali. As stated above the counsel for the petitioners submitted that if the 3<sup>rd</sup> respondent gives a statement of rent for three fasali year with the particulars of extent of land and amount as held by this Hon'ble Court and law applicable now they are prepared to pay the same.

17. It is submitted that the 2<sup>nd</sup> respondent did not sign in the Application Form and furnish the particulars required for making application, which the 1<sup>st</sup> respondent has sought for. As the permanent tenancy is not disputed and this Hon'ble Court has declared the right of permanent tenancy the 2<sup>nd</sup> respondent is no right in denying to sign in the application form, statutorily provides for the signature of Village Administrative Officer. The counsel for the petitioner submitted that the plantain crop are already delivered and is suffering with lack of water for irrigation.

18. In view of the above discussion, the writ petitions are allowed on the following terms:-

[a] The 3<sup>rd</sup> respondent shall consider the receipts produced for payment of rent for the fasali years 1424, 1425 and 1426 for issuing NOC and if the receipts are not available for the full payment of rent for three fasali years, the 3<sup>rd</sup> respondent is at liberty to furnish the details of extent of land and the amount of rent for the fasali year in accordance



with the judgment of this Hon'ble Court and law applicable as on date within a period of one week from the date of receipt of copy of this order.

[b] The 3<sup>rd</sup> respondent is directed to issue NOC to the petitioners for getting electricity supply in their name, in their respective lands, on payment of the last three fasali year's rent as mentioned in clause [a] above within a period of two weeks from the date of receipt of copy of this order.

[c] The 2<sup>nd</sup> respondent is hereby directed to sign in the Application Form provided for getting electricity connection and furnish all the copies of documents required by the 1<sup>st</sup> respondent within a period of one week from the date of receipt of copy of this order.

[d] The 1<sup>st</sup> respondent is hereby directed to give electricity connection to all the petitioners for agriculture purpose, in their respective land, on production of NOC issued by the 3<sup>rd</sup> respondent with in a period of two weeks from the date of re-submitting the application by the petitioners on payment of necessary charges applicable.

[e] As the crops are damaging due to scarcity of water an immediate measure is required to protect the crops from damage and thus the respondents are directed to comply the above direction without fail.

No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar()

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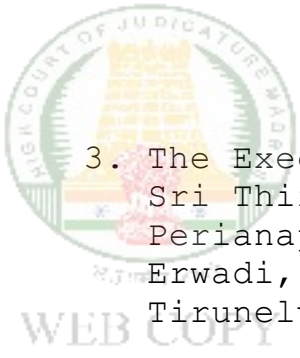
Sub Assistant Registrar

To

1. The Executive Engineer,  
Distribution,  
TANGEDCO, Valliyoor,  
Tirunelveli District.

2. The Village Administrative Officer,  
Kovilammalpuram Village,  
Mavudai, Nanguneri Taluk,  
Tirunelveli District.





3. The Executive Officer,  
Sri Thiruvazhutheswarar,  
Perianayagi Amman Devasthanam,  
Erwadi, Nanguneri Taluk,  
Tirunelveli District.

+1cc to M/S. H.ARUMUGAM, Advocate, SR.No.58001.

+1cc to Special Government Pleader, SR.No.58000 & 57900.

Common Order made in  
W.P. (MD) Nos. 9420, 9421, 9422 & 9423 of 2017  
and  
W.M.P (MD) Nos. 7165, 7166, 7167 & 7168 of 2017  
30.05.2017

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