

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Writ Appeal No.888 of 2016
and CMP.No.11315 of 2016

Dr.Raja Saravanan

...Appellant

Vs.

1.The Deputy Commissioner/Executive Officer
Arulmigu Parthasarathy Swamy Thirukoil
Triplicane
Chennai-600005

2.The Joint Commissioner
O/o. Director of Commissioner for
Hindu Religious and Charitable Endowments
Uthamar Gandhi Salai
Nungambakkam, Chennai-600 034

3.The Commissioner
O/o Director of Commissioner for
Hindu Religious and Charitable Endowments
Uthamar Gandhi Salai
Nungambakkam, Chennai-600 034

... Respondents.

Writ Appeal filed against the order dated 08.06.2016 made in W.P.No.19233 of 2016. This petition filed under Article 226 of the constitution of India, to issue a writ of certiorarified Mandamus calling for the records connected with order dated 05.05.2016 made in N.Dis.No. 20155/ 2016/ D2 on the file of 3rd respondent and to quash the same and further direct the 3rd respondent to follow the directions of this Honble Court to consider the statutory Appeal filed by the Petitioner against the order dated 12.03.2015 made in Na.Ka.No. 715/2012/ A6 on the file of the 1st respondent forth with along with the related applications.

For Appellant : Mr.B.Kumar, Senior counsel
for Mr.R.Loganathan

For Respondents : Mrs.Rita Chandrasekaran, Spl.G.P.

JUDGMENT

(Judgment of the Court was made by HULUVADI G. RAMESH, J.)

Heard the learned counsel for the appellant and Mrs. Rita Chandrasekaran, learned Special Government Pleader appearing for the Hindu Religious and Charitable Endowments Department.

2. This Writ Appeal is filed as against the order of the learned Single Judge dated 08.06.2016 passed in W.P.No.19233 of 2016, wherein, the prayer of the petitioner was rejected for the reason that the appellant has not complied with the orders in making the pre-deposit of rental arrears.

3. The appellant is a Medical Practitioner and is in possession of the buildings bearing Door No.102A, T.P.Koil Street, Triplicane, Chennai-5 and Door No.108, Thulasinga Perumal Koil Street, Triplicane, Chennai-5 and he was granted lease of the said premises vide Lease Deed dated 23.09.2000, particularly in respect of the premises bearing Door No.102A, Thulasingham Street, Chennai-5, admeasuring to an extent of 1509 sq.ft along with the superstructure and the extent of rent payable was Rs.9680/- and the advance amount fixed was Rs.58080/- representing six months rent. The appellant, during the year 2015 had an arrears of Rs.7,73,890/-.

4. The learned Single Judge, pointed out that the writ petitioner had made a part payment of pre-deposit arrears and not deposited the entire arrears and in such circumstances, the appeal petition filed by the petitioner had been returned on the ground of non-deposit of the pre-deposit rental arrears. The learned Single Judge, further observed that the contention of the petitioner towards adjusting the advance amount paid by him as against the pre-deposit monthly arrears was not made at the earliest point of time and in the light of the conduct exhibited by the writ petitioner, the relief cannot be granted.

5. The learned Senior counsel appearing for the appellant submits that all of a sudden, the fair rent fixed by the respondent-Department has been enhanced by 7 times than the original rent fixed, which made the appellant impossible to pay the same with the arrears. Learned Senior counsel also submitted that enhanced fair rent was so exorbitant and it was fixed without any rationality.

6. Mrs. Rita Chandrasekaran, learned Special Government Pleader, who takes notice for the respondents, submits that the pre-condition for taking appeal against the order of the Deputy Commissioner/Executive Officer dated 12.03.2015 is the payment of rental arrears and as such the appellant may be directed to pay the said rental arrears.

7. For the said course of argument made by the learned Special Government Pleader, the learned Senior counsel appearing for the appellant, replied that the appellant has already paid the rental arrears before the Appellate Authority, Insofar as the payment of arrears of rental is concerned, appellant also produced a copy of the receipt in the typed set of papers which of course, is subject to verification by the authorities concerned.

8. Taking into consideration all the facts and circumstances, the Appellate Authority shall verify the receipts, if any produced by the appellant herein, consider the issue as regards the fixation of reasonable rent, after affording an opportunity to the appellant and dispose of the appeal, in accordance with law, within 2 months from the date of receipt of a copy of this order. It is left open to the appellant to raise all the contentions made herein before the Appellate Authority and agitate the issue therein. The respondents, shall not take any coercive steps against the appellant, till a decision is taken in the appeal filed by the appellant herein.

9. The Writ Appeal is disposed of with the above observation. No costs. Consequently, connected CMP is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

nvsri

To

1.The Deputy Commissioner/Executive Officer
Arulmigu Parthasarathy Swamy Thirukoil
Triplicane
Chennai-600005

2.The Joint Commissioner
O/o. Director of Commissioner for
Hindu Religious and Charitable Endowments
Uthamar Gandhi Salai
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3.The Commissioner

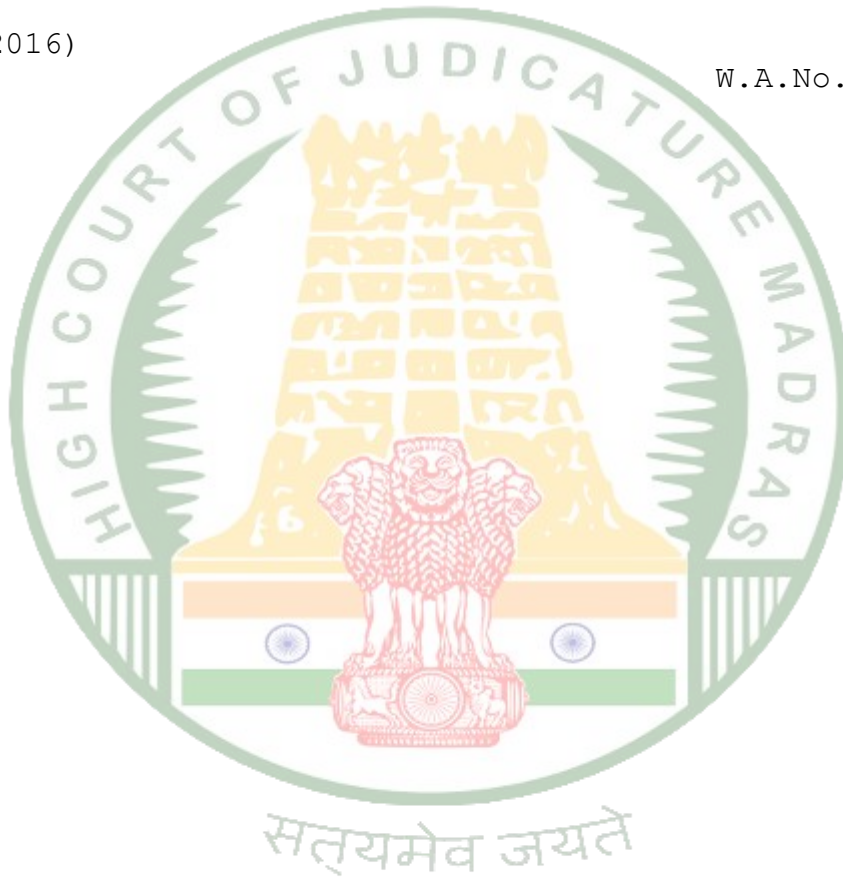
O/o Director of Commissioner for
Hindu Religious and Charitable Endowments
Uthamar Gandhi Salai
Nungambakkam, Chennai-600 034

+1cc to Mr.R. Loganathan, Advocate, S.R.No.41635

+1cc to the Government Pleader, S.R.No.417882

NM(CO)
EU(08/08/2016)

W.A.No.888 of 2016



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