

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.10.2016

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

W.P.No.33567 of 2016

and

W.M.P.Nos.28976 to 28978 of 2016

P.Ramalakshmi

.. Petitioner

-vs-

1.The State of Tamil Nadu,
represented by Secretary to Government,
HR & CE Department,
Fort St.George, Chennai-600 009.

2.The Commissioner,
HR & CE Administration Department,
Nungambakkam High Road,
Nungambakkam,
Chennai-600 034.

3.The Joint Commissioner / Executive Officer,
Arulmighu Arunachaleeswarar Tirukovil,
Tiruvannamalai
(Titukkoil Bharani Abhisheka Kattalai),
Tiruvannamalai. .. Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus calling for the entire records leading to the issue of G.O.Ms.No.164, Tourism, Culture and Endowment Department (AANEE4.1) Department, dated 14.12.2015 and G.O.Ms.No.99, Tourism, Culture and Endowment Department (AANEE4.1) Department, dated 13.07.2016 on the file of the first respondent and Na.Ka.No.461/2014/A3 dated 21.11.2014 on the file of the third respondent and quash the same and direct the respondents 1 to 3 herein to fix the Fair Ground Rent for the 1464 sq.ft.of land in the occupation and enjoyment of the petitioner in the residential premises bearing Old No.58, New No.129, V.M.Street, Royapettah, Chennai-600 014, in accordance with the rates fixed by the Government in G.O.Ms.No.298, TDRE&I Department, dated 20.07.2010.

For Petitioner :: Mr.K.Sridhar

For Respondents:: Mr.M.Maharajan,
Special Government Pleader

ORDER

This writ petition has been filed to call for the entire records leading to the issue of G.O.Ms.No.164, Tourism, Culture and Endowment Department (AANEE4.1) Department, dated 14.12.2015 and G.O.Ms.No.99, Tourism, Culture and Endowment Department (AANEE4.1) Department, dated 13.07.2016 on the file of the first respondent and the proceedings in Na.Ka.No.461/2014/A3 dated 21.11.2014 on the file of the third respondent and quash the same and direct the respondents 1 to 3 herein to fix the Fair Ground Rent for the 1464 sq.ft.of land which is under the occupation and enjoyment of the petitioner in the residential premises bearing Old No.58, New No.129, V.M.Street, Royapettah, Chennai-600 014, in accordance with the rates fixed by the Government in G.O.Ms.No.298, TDRE&I Department, dated 20.07.2010.

2.It is stated by the petitioner that his father purchased the superstructure in the premises in which the petitioner is residing, admeasuring 1464 sq.ft.in Old No.58, New No.129, Venkatachala Mudali 2nd Street, V.M.Street, Royapettah, Chennai from Munuswamy Naidu and others under a registered sale deed in the year 1951. The land belonged to Bharani Deepa Kattalai coming under the control of the third respondent temple. For the past 66 years, the petitioner's family has been residing in the said premises. At that time, the father of the petitioner was paying a ground rent of 10 Annas to the Authorised Person of the Kattalai and he was also paying property tax to Chennai Corporation. It is also stated that the Special Trustee of the Kattalai sent a letter to the father of the petitioner offering to sell the property to persons who were in occupation of the land and the petitioner's father also expressed his consent in writing, to purchase the land and to get the sale deed in his favour, but the transaction is being kept abeyance till now.

3.The petitioner also states that the ground rent was increased to Rs.2.48 in January 1979 and after his father's demise in the year 1994, the ground rent was increased to Rs.13/- from July 1997. In April 2002, the third respondent informed the petitioner that the rent was increased to Rs.4,520/- with retrospective effect from November 2001. The petitioner immediately responded and sought for the calculation sheet as to how the revised rent of Rs.4,520/- has been arrived at, without giving any opportunity to him. This increase was made based on G.O.Ms.No.353, Tamil Development Culture and Religious Endowment Department, dated 04.06.1999. The petitioner submits that as per G.O.Ms.No.298, TDRE&I Department, dated 20.07.2010, the occupants of the temple lands for residential purposes had to pay the old rent upto June 2007 and thereafter pay the revised rent calculated at 0.10% of the guideline value of the occupied land as in the year 2001 and commence paying the

revised rent from July 2007 with increase of 15% in rent for every 3 years. The petitioner states that G.O.Ms.No.298 has to be followed in fixing the rent for the premises in question.

4. With the above background, this writ petition has been filed with the prayer as already stated supra.

5. When this writ petition came up before this Court on 23.09.2016, this Court observed that the only issue to be considered in this writ petition is whether the Rent Fixation Committee constituted by the third respondent / temple has examined the petitioner's case with regard to the re-fixation of the rent for the land based on various Government Orders. The learned counsel for the petitioner, at that time, submitted that the Government Order which has to be followed is G.O.Ms.No.298 dated 20.07.2010, but however, this has not been done and no exercise was done by the Rent Fixation Committee and straightaway, a demand dated 21.11.2014 was slapped on the petitioner, which is impugned in this writ petition. He further submitted that when the petitioner pointed out to the first respondent stating that the rent has been fixed in violation of the Government Orders, the first respondent did not refer to the said Government Orders, but rejected the petitioner's representation by passing an order in G.O.(D)No.99, dated 13.07.2016. This Government Order is also impugned in this writ petition. The learned Special Government Pleader appearing on behalf of the respondents was directed to get instructions as to whether any exercise was done by the Rent Fixation Committee before issuing the demand.

6. Today, when the matter came up before this Court, after some elaborate arguments, this Court clearly clarified and worked out the rent, in accordance with G.O.Ms.No.298 dated 20.07.2010. The area of the land is 1464 sq.ft. and the same is not in dispute. Only the guideline value is disputed. This Court fixed the guideline value as per the Public Works Department at Rs.1,563/- per sq.ft. Therefore, the best price as per this Court's calculation itself as on 01.07.2007 is Rs.3,040/-. As per the Government Orders, the increase in the Fair Rent for every three years, would be 0.10% of the value of the property. If that is applied, the rent as on 01.07.2010 would be Rs.3,496/- (rounded off to Rs.3,500/-). Accordingly, as on 01.07.2013, after an increase of 0.1% as stated above, the rent would be Rs.4,025/-. Thus the fair rent is finalised as under:

As on 01.07.2007	-	Rs.3,040/-
As on 01.07.2010	-	Rs.3,500/-
As on 01.07.2013	-	Rs.4,025/-

7. Whatever amount the petitioner has already paid will be given credit. Upto 2007, the enhanced rent need not be paid as per the Government Orders. As per the above calculation, the balance rent, if any, shall be paid by the petitioner within a

period of three months from the date of receipt of a copy of this order as per the abovesaid calculation and he shall continue to pay the other amounts, if any, in accordance with the relevant Government Orders.

8.The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

KM

To

- 1.The Secretary to Government,
Government of Tamil Nadu,
HR & CE Department,
Fort St.George, Chennai-600 009.
- 2.The Commissioner,
HR & CE Administration Department,
Nungambakkam High Road,
Nungambakkam,
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- 3.The Joint Commissioner / Executive Officer,
Arulmighu Arunachaleeswarar Tirukovil,
Tiruvannamalai
(Titukkoil Bharani Abhisheka Kattalai),
Tiruvannamalai.

1 cc to Government Pleader, Sr. 60128
2 ccs to M/s.K. Sridhar Associates, Sr. 59732

W.P.No.33567 of 2016
and

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SR (CO)
kk 24/11

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