

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2017

CORAM

THE HONOURABLE MR.JUSTICE M. DURAISWAMY

W.P. No. 16207 of 2017
&
W.M.P. No. 17514 of 2017

Mangayarkarasi ... Petitioner

Vs.

1. The Joint Commissioner/Executive Officer,
Arulmigu Parthasarathy Swamy Temple,
Triplicane, Chennai - 600 005.
2. The Joint Commissioner,
rep. by its Commissioner,
Hindu Religious and Charitable Endowments
Department,
119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai - 600 034. ... Respondents

Prayer: Petition under Article 226 of the Constitution of India
praying for issue of a Writ of Certiorari to call for the
records of the 1st respondent in proceedings No.Na.Ka. No.
773/2017 A3 and quash its order dated 12.05.2017.

For Petitioner :: Mr. Ravindran,
Senior Counsel for
Mr. S. Bazeer Ahamed

For Respondents :: Mr. M. Maharaja
Special Govt. Pleader
(HR & CE)

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O R D E R

Mr. M. Maharaja, learned Special Government Pleader, takes
notice for the respondents. By consent, the main writ petition
itself is taken up for disposal at the admission stage itself.

2. The petitioner has filed the above writ petition to issue a writ of certiorari to call for the records of the 1st respondent in proceedings dated 12.05.2017 and to quash the same.

3. According to the petitioner, he is occupying the premises situated at No.22, Dr. Natesan Road, Triplicane, Chennai on lease basis, on a monthly rent of Rs.18,800/- since 09.02.2009, after paying a sum of Rs.6,40,595/-, the arrears of the erstwhile lessee and after paying donation of Rs.1,41,045/- to the 1st respondent. The 1st respondent increased the rent by 15% at Rs.20,700/- from 20.11.2013. Subsequently, by notice dated 01.02.2017, the 1st respondent proposed to increase the rent at Rs.84,150/- per month. The petitioner, by her letter dated 15.02.2017 raised objections for the said proposal. Thereafter, by the impugned order dated 12.05.2017, the 1st respondent had fixed the rent at Rs.66,300/- with effect from 01.07.2016 along with arrears of Rs.1,10,019/-. Challenging this order, the petitioner has filed the above writ petition.

4. Mr.Ravindran, learned Senior Counsel appearing for the petitioner submitted that the 1st respondent has passed the impugned order, fixing the fair rent at Rs.66,300/-, without forming the Fair Rent Fixation Committee and without giving an opportunity of hearing to the petitioner.

5. Mr.M.Maharaja, learned Special Government Pleader, appearing for the respondents submitted that the fair rent has been fixed only by the Fair Rent Fixation Committee consisting of the Joint Commissioner, Deputy Commissioner and the District Registrar. The learned Special Government Pleader has also produced the proceedings of the Committee, fixing the fair rent at Rs.66,300/-. However, the learned Special Government Pleader, fairly submitted that since the learned Senior Counsel for the petitioner contended that no opportunity of hearing was given to the petitioner, the impugned order may be set aside and the matter may be remitted back to the 2nd respondent for fresh consideration, after giving an opportunity of hearing to the petitioner.

6. In view of the submissions made by the learned counsel on either side, since the petitioner was not given an opportunity of hearing, the impugned order dated 12.05.2017 is liable to be set aside solely on that ground.

7. Accordingly, the impugned order dated 12.05.2017 is set aside and the matter is remitted back to the 2nd respondent for fresh consideration. The 2nd respondent is directed to give an opportunity of personal hearing to the petitioner and dispose of the matter within two weeks from the date of receipt of a copy

of this order. It is needless to say that the respondents shall furnish a copy of the report of the Committee to the petitioner. At this juncture, Mr. Maharaja, learned Special Government Pleader submitted that he would serve a copy of the Committee's report to the petitioner today itself. The petitioner is directed to appear before the 2nd respondent for hearing on 03.07.2017 and he is also at liberty to produce all the documents before the 2nd respondent.

With these observations, the writ petition is allowed. No costs. Connected miscellaneous petition is closed.

rg

29/06/2017

This matter having been listed under the caption "For Being Mentioned" on 11/07/2017 in pursuant to the order of this Court dated 29.06.2017 in the presence of the abovesaid counsels on the either side, the court made the following order;

At the instance of both sides, the matter has been listed under the caption for "Being Mentioned".

2. Mr. Ravindran, learned Senior Counsel appearing for the petitioner submitted that in spite of the directions given by this court in paragraph No.7 of the order dated 29.06.2017, the first respondent has not furnished the copy of the report of the committee to the petitioner.

3. Mr. M. Maharaja, learned Special Government Pleader, appearing for the respondents submitted that he would give suitable instructions to the 1st respondent to furnish copy of the report of the committee to the petitioner by 12.07.2017.

4. Recording the submissions made by the learned Special Government Pleader, the petitioner is directed to appear before the 1st respondent on 12.07.2017 and the 1st respondent shall furnish the copy of the committee report to the petitioner on 12.07.2017 itself. After furnishing the copy of the report, the 1st respondent is directed to decide the matter afresh, after giving an opportunity of personal hearing to the petitioner. In all other aspects, the order of the court dated 20.06.2017 shall remain unaltered.

5. The Registry is directed to incorporate the above in the order dated 29.06.2017 and issue fresh copy of the order to the learned counsel on either side.

Rj

11/07/2017

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1. The Joint Commissioner/Executive Officer,
Arulmigu Parthasarathy Swamy Temple,
Triplicane, Chennai - 600 005.
 2. The Joint Commissioner,
rep. by its Commissioner,
Hindu Religious and Charitable Endowments
Department,
119, Uthamar Gandhi Salai,
Nungambakkam, Chennai - 600 034.
- + 1 cc to Mr.S.Bazeer Ahamed, Advocate Sr.45127
+ 1 cc to the Government Pleader SR.46136
+ 1 cc to Mr.S. Bazeer Ahamed, Advcate SR.48139(21.07.17)
+ 1 cc to Government Pleader Sr.49084(21/07/2017)

W.P. No. 16207 of 2017

&
W.M.P. No. 17514 of 2017

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