

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 21.09.2017****CORAM:****THE HONOURABLE MR.JUSTICE R.MAHADEVAN**

WEB COPY

W.P (MD) No.19016 of 2015**and****M.P (MD) No.1 of 2015**

Dhanalakshmi

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep.by its Secretary to Government,
Hindu Religious and Charitable Endowments Department,
Fort St. George, Chennai - 9.
2. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Trichy.
3. The Executive Officer,
Arulmigu Sivaloganathaswamy
attached to Prasanna Venkatachalapathy Temple,
Tirupattur,
Manachanallur Taluk,
Trichy District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records in pursuant to the order passed by the third respondent vide proceedings Nil dated 06.10.2015 and quash the same as illegal and ultra vires.

For Petitioner : Mr.S.Madhavan

For R1 & R2 : Mr.M.Alagathevan,
Special Government PleaderFor R3 : Mrs.N.Krishnaveni
for Mr.P.Thiagarajan**ORDER**

This writ petition has been filed, seeking to quash the impugned proceedings passed by the third respondent, dated 06.10.2015, whereby, the petitioner was directed to appear for conducting enquiry.



2. Heard the learned counsel appearing on either side.

3. It is the case of the petitioner that the third respondent temple has leased out the land in Survey Nos.538/11B and 538/3A at Siruvanur Village to an extent of 28 cents to the petitioner and the said lease has been renewed on 13.07.2011 for a period of 90 years fixing the rent of Rs.500/- for fasli. He had obtained No Objection Certificate for electricity connection and also had put up a refreshment stall and hotel. While so, the third respondent had issued a notice enhancing the fair rent from Rs.500 to Rs.9523/-. But, no document was executed in favour of the temple to transfer the ownership of superstructure. Based on the said notice, dated 20.07.2015 the petitioner was asked to deposit a sum of Rs.2,38,075/-. The petitioner had challenged the order of the third respondent before this Court in W.P.(MD) No.15259 of 2015, upon which, this Court directed the third respondent to afford an opportunity of hearing to the petitioner and despite the direction issued by this Court in W.P.(MD) No.15259 of 2015, the third respondent, without hearing the petitioner, has issued the impugned notice dated 06.10.2015 fixing the cut off date as 20.10.2015 for filing objections and also evidences in respect of fixation of fair rent. Aggrieved by the same, the petitioner has come before this Court with the above said prayer.

4. The learned counsel for the petitioner would submit that the impugned order passed by the third respondent is in violation of provisions contemplated under the Tamil Nadu Hindu Religious Charitable Endowments Act, 1959, inasmuch as the enquiry was proposed to be held after fixing the fair rent under the Act which is improper.

5. The petitioner has challenged the impugned proceedings, which is nothing but a show cause notice and as per the settled law, it is prerogative on the part of the petitioner to offer her explanation to the said notice. Without doing so, the petitioner has straightaway approached this Court, seeking quashment of the said notice.

6. According to the learned counsel for the respondent, the allotment of land in question was made only for the purpose of agricultural operations and the petitioner, without obtaining any prior permission or building plan, has been utilizing the same for commercial purposes.

7. Considering the facts and circumstances of the case and upon hearing rival submissions, the petitioner is hereby directed to appear before the respondent for enquiry on the date to be fixed by the Court. The third respondent, to substantiate her stand and upon her appearance and completion of enquiry, the authority shall either consider fixation of fair rent or take a decision regarding



immediate removal of building from the land in question. The entire exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.

8. This writ petition is disposed of with the above direction. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (crl side)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
Hindu Religious and Charitable
Endowments Department,
Fort St. George, Chennai - 9.
2. The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department, Trichy.

+1cc to Mr.S.Madhavan, Advocate Sr.No.80472

+1cc to Mr.P.Thiagarajan, Advocate Sr.No.80418

RM

VB/KK/SAR4/11/10/2017/3P/5C

W.P(MD)No.19016 of 2015
21.09.2017