



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 21.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN
W.P(MD)Nos.14971, 14972 and 14974 of 2017 and
W.M.P.(MD) Nos.11795, 11796 and 11798 of 2017

WEB COPY

1. S.Malliga ... Petitioner in W.P.(MD) No.14971 of 2017
2. M.Poornachandran ... Petitioner in W.P.(MD) No.14972 of 2017
3. S.Geetha ... Petitioner in W.P.(MD) No.14974 of 2017

-vs-

1. Commissioner,
Hindu Religious & Charitable Endowments Department,
119, Uthamar Gandhi Salai,
Nungambakkam, Chennai-34.
2. Joint Commissioner,
Hindu Religious & Charitable Endowments Department,
West Chitirai Street,
Madurai-625 001.
3. Executive Officer,
Arulmigu Vandikaliyamman Tirukovil,
Thadikombu Road, Dindigul. ... 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 impugned notice of the third respondent dated Nil and quash the same.

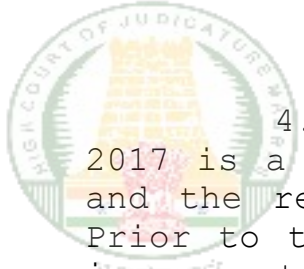
For Petitioners : Mr.M.S.Sureshkumar
For R1 & R2 : Mr.M.Alagathevan,
Spl. Govt. Pleader
For R3 : Mr.M.Muthu Geethaian

C O M M O N O R D E R

The issue involved in all these writ petitions is one and the same and therefore, all these matters are taken up together for final disposal by way of this common order.

2. For the sake of brevity, the facts are being taken from W.P.(MD) No.14971 of 2017, in which, the petitioner was asked to pay the increased rent of Rs.1,02,100/- with effect from 01.07.2016.

3. Heard the learned counsel for the petitioners, the learned counsel for the respondents, the Government Pleader appearing for R1 & R2 and the learned counsel for R3.

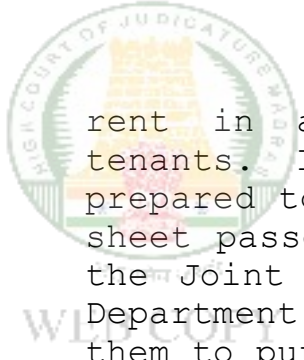


4. S.Malliga / the petitioner in W.P.(MD) No.14971 of 2017 is a tenant of the property, belonging to the 3rd respondent and the rent has been revised in consonance with G.O.Ms.No.456. Prior to the said Government Order, the mode of fixing fair rent in respect of buildings used for commercial purpose was adopted as per G.O.Ms.No.353 dated 04.06.1999 by taking into consideration the value of the building and the rent can be fixed at the rate of 6% out of the same or by taking into consideration the present rent prevailing in that area, whichever is higher. After introduction of G.O.Ms.No.456, guidelines were framed for fixation of fair rent on the basis of the land value as in the year 2001 and to enhance the same by 15% once in three years.

4.1. When the matter stood thus, the petitioner, who is in occupation of the property to the extent of 1000 sq.ft., has been paying the monthly rent of Rs.11,903/- without any default and the respondent, vide impugned order, all of a sudden increased the rent from Rs.11,903/- to Rs.1,02,100/-, taking into account the prevailing market value, on the basis of the order of the Fair Rent Fixation Committee, presided over by the Joint Commissioner, H.R.&C.E., dated 11.04.2017, without even providing a copy of the said order. Though the petitioner approached the 3rd respondent questioning such arbitrary fixation of rent and filed her objections, there was no response on the side of the 3rd respondent. Moreover, neither prior notice was issued to the petitioner calling for objections either by the 3rd respondent or by the Joint Commissioner, HR&CE., Madurai, nor the calculation sheet was served upon the petitioner to put forth her defence. Aggrieved by the action of the respondents, the petitioner is before this Court.

5. The learned counsel for the petitioners would submit that though G.O.Ms.No.456 stipulates fixation of fair rent on the basis of the land value as in the year 2001, the direction issued by the 3rd respondent to pay the monthly rent, based on the market value prevailing in the year 2017 is arbitrary and contrary to the afore-stated Government Order and therefore, the impugned order is liable to be set aside at the threshold.

6. Per contra, the learned counsel for the 3rd respondent has contended that the writ petitioners have not disclosed the actual area of occupation as tenants, which is nothing but suppression of material facts before this Court. However, he has fairly submitted that the State has issued the circular dated 02.02.2009, by which instructions have been issued to the authorities to give an opportunity to the tenants before the rent is finally fixed, based on which, a Hon'ble Division Bench of this Court has passed an order dated 06.02.2009 in the case of Arulmigu Arundhaniswari and Kasivishwanathaswami Temple Adimanaiveal House Owners Association, reported in 2009 (6) CTC 512, vide which, the authorities were directed to fix or refix the lease



rent in accordance with law after notice to the respective tenants. In the present case on hand, the 3rd respondent is prepared to furnish a copy of the order along with the calculation sheet passed by the Fair Rent Fixation Committee presided over by the Joint Commissioner, Hindu Religious and Charitable Endowment Department dated 11.04.2017 to all the petitioners so as to enable them to put forth their objections.

7. In view of the submissions made by the learned counsel for the 3rd respondent, following the judgment of the Hon'ble Division Bench of this Court referred to supra and also taking into account the proceedings issued by the State dated 02.02.2009, the following directions are issued in these writ petitions:

i) the 3rd respondent is directed to provide a copy of the order of the Fair Rent Fixation Committee presided over by the Joint Commissioner, Hindu Religious and Charitable Endowment Department dated 11.04.2017 as well as the calculation sheet to the petitioners forthwith, if not already given;

ii) This Court, normally while granting interim orders, would uniformly direct the petitioners/lease holders to deposit 50% of the enhanced rent immediately (as in the case of W.P.(MD) Nos.16785 to 16794 of 2017 and 13383 to 13392 of 2017) and in view of final disposal of all these writ petitions, the petitioners shall at the first instance, deposit 50% of the enhanced amount, if not already remitted and thereafter file their objections supported by whatever documents they have in their possession on or before 11.10.2017 to the concerned authorities; and

iii) the authorities, upon satisfaction of the remittance of the 50% of the amount by the petitioners, on scrutiny of the documents produced by the petitioners and upon considering their objections, shall fix or re-fix the lease rent in accordance with law, within a period of two weeks thereafter.

With the above directions, all these writ petitions are disposed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(Crl side)

/True Copy/

Sub Assistant Registrar

To:

1. Commissioner,
Hindu Religious & Charitable Endowments Department,
119, Uthamar Gandhi Salai,
Chennai-34.



2. Joint Commissioner,
Hindu Religious & Charitable Endowments Department,
West Chitirai Street,
Madurai-625 001.

WEB COPY

+3cc to M/S.A.K.Baskarapandiyan, Advocate SR.No. 80459, 80460,
80461

+3cc to M/S.M.S.Sureshkumar, Advocate SR.No. 80170, 80171, 80172

W.P (MD) Nos.14971, 14972 and 14974 of 2017
(3 cases)
21.09.2017

ar

JM/SV MMS/SAR 4/04.10.2017/4P/9C