

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 18.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN**W.P(MD)Nos.17498 to 17503 of 2017****and****W.M.P. (MD) Nos.14020 to 14026 of 2017**

C.Lalitha	... Petitioner in W.P.17498 of 2017
M.Rathinam	... Petitioner in W.P.17499 of 2017
B.Sabi Mohammed	... Petitioner in W.P.17500 of 2017
C.Lalitha	... Petitioner in W.P.17501 of 2017
S.Pooranthammal	... Petitioner in W.P.17502 of 2017
E.M.Kamal Batcha	... Petitioner in W.P.17503 of 2017

-vs-

The Executive Officer,
Arulmigu Kalahatheeswara Swamy Temple,
Dindigul.

... Respondent in all writ petitions

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent dated 28.06.2017 and 22.06.2017, 22.06.2017, 28.06.2017, 22.06.2017 and 22.06.2017 quash the same as the same is arbitrary, ultravires, in violation of principles of natural justice, audi alteram partem and consequentially direct the respondent to demand rent in consonance with G.O.Ms.No.456 Tamil Development, Hindu Religious and Charitable Endowment News dated 9.11.2007 in respect of No.25, Koil Theru, Dindigul (W.P.No.17498), No.30, Koil Theru, Dindigul (W.P.No.17499 of 2017), Nos.164, 165 & 166, Main Road, Dindigul (W.P.No.17500 of 2017), No. 25E, Koil Theru Dindigul (W.P.No.17501 of 2017), No.171, Main Road, Dindigul (W.P.No.17502 of 2017), and No.26AC, Koil Theru, Dindigul (W.P.No.17503 of 2017).



For Petitioner : Mr.R.G.Shankar Ganesh
For Respondent : Mr.M.Muthu Geethaian
in all petitions

COMMON ORDER

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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.17498 of 2017, in which, the petitioner was asked to pay the increased rent of Rs.7,070/- with effect from 01.07.2016.

3. Heard the learned counsel for the petitioners and the learned counsel for the respondent.

4. C.Lalitha / the petitioner herein is a tenant of the property, belonging to the respondent and a fair rent has been fixed in the year 2009 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 64 sq.ft., each on the ground and first floor has been paying the monthly rent of Rs.3,517/- without any default and in the month of May, 2017, the respondent refused to accept the said rent stating that new rent is going to be fixed shortly and accordingly, the respondent, vide impugned order, all of a sudden increased the rent from Rs.3,517/- to Rs.7,070/-, by hike of 300%, 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 28.02.2017, without even providing a copy of the said order. Though the petitioner approached the respondent questioning such arbitrary fixation of rent, there was no response on the side of the respondent. Moreover, neither prior notice was issued to the petitioner calling for objections either by the respondent or by the Joint Commissioner, HR&CE., Madurai, nor the <https://hcservices.hcsa.gov.in/hcservices> it was served upon the petitioner to put forth his defense. Aggrieved by the action of the respondent, 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 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 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 Angala Parameswari 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 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 28.02.2017 (though given to some of the petitioners) 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 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 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 28.02.2017 as well as the calculation sheet to the petitioners forthwith, if not already given;

ii) This Court, 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 06.10.2017 to the concerned authorities; and

<https://hcservices.ecourts.gov.in/hcservices/>

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 refix 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(CO)

/True Copy/

Sub Assistant Registrar

To:

The Executive Officer,
Arulmigu Kalahatheeswara Swamy Temple,
Dindigul.

+1cc to M/S. R.G.SHANKAR GANESH, Advocate, SR.No.79366.

+2cc to M/S. A.K.BASKARA PANDIYAN, Advocate, SR.No.79391 & 79392.

W.P(MD)Nos.17498 to 17503 of 2017
18.09.2017

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SDS/SKN:RSK/SAR 2/20.09.2017/4P/5C