

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

DATED: 21.09.2017

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

WEB COPY

**W.P(MD) No.17789 of 2017 and
W.M.P. (MD) No.14340 of 2017**

Pandurengan

... Petitioner

-vs-

1. The Secretary,
Hindu Religious and Charitable Endowments Department,
Chennai.
2. The Commissioner,
Hindu Religious and Charitable Endowments Department,
Chennai.
3. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Madurai.
4. The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Madurai-1.
5. Managing Trustee,
Arulmighu Puttu Urchava Vagaiyara Kattalai,
Puttuthoppu, Arappalayam Main Road,
Madurai-625 016.

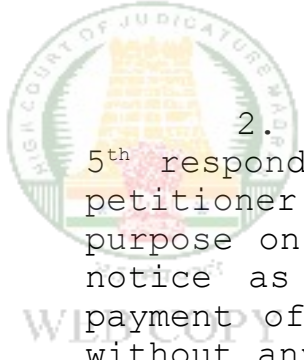
... Respondents

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 of the impugned order in Na.Ka.821/2014-4/A1 dated 01.09.2017 passed by the 4th respondent and quash the same as illegal.

For Petitioner	: Mr.M.Kannan
For R1 to R4	: Mr.J.Gunaseelan Muthiah Govt. Advocate
For R5	: Mr.M.Saravanan

O R D E R

This writ petition has been filed, seeking to quash the impugned order of the fourth respondent dated 01.09.2017 made in Na.Ka.821/2014-4/A1 dated 01.09.2017, by which the petitioner was directed to vacate the premises within 30 days.



2. The case of the petitioner is that he is a tenant under 5th respondent and with the permission of the 5th respondent, the petitioner also constructed a super structure for residential purpose on the property. While so, the 3rd respondent had issued a notice as if the petitioner is a encroacher and defaulted in payment of rent. Though the petitioner has been paying the rent without any default, without any notice regarding fixation of fair rent, the 4th respondent has passed the impugned order of eviction. When the revision filed by the petitioner against the order passed in the review petition, is pending consideration by the 1st respondent, the impugned order came to be passed. Hence, aggrieved by the same, the petitioner is before this Court.

3. When the matter is taken up for hearing, the petitioner has filed an affidavit dated 21.09.2017, wherein in Paragraph No.4, it is stated as under:

"4) I submit that, I have remitted the entire arrears of rent on 19.09.2017 itself. I have remitted Rs.2,60,176/- to the 5th respondent on 19.09.2017. I hereby undertake to pay the fair rent already fixed by the 5th respondent".

4. The said affidavit of undertaking is taken on record. The learned counsel for the 5th respondent has conceded the receipt of the amount and has, on instructions, submitted that the 5th respondent is inclined to permit the petitioner to occupy in the property belonging to the 5th respondent.

5. In view of the above submission, the petitioner is directed to pay the fair rent as fixed by the 5th respondent without any default and honour the commitment as undertaken in the affidavit. Pursuant to the undertaking filed by the petitioner agreeing to pay the rent to be fixed by the 5th respondent, the respondents, especially 4 & 5 are directed to drop all other proceedings pending against the petitioner. However, it is made clear that in the event of the petitioner committing any default in compliance of remittance of monthly rent, the respondents are at liberty to evict the petitioner forthwith.

6. With the above direction, this petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(RTI)

/True Copy/



To:

1. The Secretary,
Hindu Religious and Charitable Endowments Department,
Chennai.
2. The Commissioner,
Hindu Religious and Charitable Endowments Department,
Chennai.
3. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Madurai.
4. The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Madurai-1.

+1cc to M/S. M.KANNAN, Advocate, SR.No.80830.

+1cc to M/S. M.SARAVANAN, Advocate, SR.No.80501.

+1cc to Special Government Pleader, SR.No.81060.

W.P (MD) No.17789 of 2017
21.09.2017

ar

SDS/SV:MMS/SAR 4/09.10.2017/3P/8C