



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 04.04.2017

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THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P (MD) No.5721 of 2017

and

W.M.P (MD) Nos.4581 to 4583 of 2017

M/s.Arul Sundaram Chit Funds Private Limited,
represented through its Managing Director,
M.Nagarajan. ..Petitioner

Vs

- 1.The Joint Commissioner,
Tamil Nadu Hindu Religious Charitable and Endowment Board,
Sivagangai.
- 2.Aruppukkottai Puliyampatti-Thirunagaram Saliyar Mahasana
Paribalana
Sabaikku Pathiyapatta Arulmighu Makaliyamman Vagaiyara
Thirukovilagal,
represented through its Trustee,
N.A.Subramaniam., ..Respondents.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records of the impugned order passed by the first respondent herein in his proceedings in Na.Ka.No.4913/2016-6/Aa3, dated 10.2.2017 and the consequential communication issued by the second respondent dated 15.3.2017 and to quash the same as illegal and further to direct the respondents to refix the fair rent for Door No.26-1-169, Virudhunagar Main Road, Aruppukkottai after issuing notice and pass appropriate orders within the time stipulated by this Court.

For Petitioner : Mr.V.Meenakshisundaram
for M/s.D.Nallathambi

For Respondent-1 : Mr.M.Alagathevan
Special Govt.Pleader

For Respondent-2 : Mr.Ganapathisubramanian

**ORDER**

The Petitioner has approached this Court seeking issuance of a Writ of Certiorarified Mandamus calling for the records of the impugned order passed by the first respondent herein in his proceedings in Na.Ka.No.4913/2016-6/Aa3, dated 10.2.2017 and the consequential communication issued by the second respondent dated 15.3.2017 and to quash the same as illegal and further to direct the respondents to refix the fair rent for Door No.26-1-169, Virudhunagar Main Road, Aruppukkottai after issuing notice and pass appropriate orders within the time stipulated by this Court.

2.Mr.M.Alagathevan, learned Special Government Pleader takes notice for the first respondent and Mr.Ganapathisubramanian, learned counsel takes notice for the second respondent.

3.By consent of both parties, the main Writ Petition is taken up for disposal, at the admission stage itself.

4.The Petitioner is a tenant under the second respondent at Door No.26-1-169, Virudhunagar Main Road, Puliampatti, Aruppukkottai. The building belongs to the second respondent/temple which has come under the supervisory jurisdiction of the first respondent. According to the Petitioner, he is paying the rent regularly and promptly from time to time, as per the rent fixed by the second respondent. There has been no default in payment of the rent, as on date. While so, the second respondent appears to have issued a communication, dated 15.3.2017 fixing the monthly rent of Rs.8,930/- w.e.f 1.3.2017 for the above said building measuring 836 sq.ft based on the proceedings of the first respondent, dated 10.2.2017. The Petitioner has obtained a copy of the above said proceedings of the first respondent and as per the first respondent proceedings, the Fair Rent committee Meeting was held on 3.2.2017. In that meeting, it was decided to fix the fair rent of Rs.8,930/- as against the rent of Rs.1,200/- paid by the Petitioner, till date.

5.The grievance of the Petitioner is that before a decision was taken for fixing the fair rent by the Fair Rent Committee, no notice was issued to the Petitioner and he was not heard while arriving at the figure of Rs.8,930/- as fair rent payable from 1.3.2017. The grievance of the Petitioner also seems to be that the fair rent has been fixed contrary to the provisions of Section 34-A of the Tamil Nadu Hindu Religious Charitable and Endowments Act, 1959, since the fair rent has been fixed contrary to the provisions of Section 34-A of the Tamil Nadu Hindu Religious Charitable and Endowments Act, 1959 on the basis of the market value of the property and not on the market rental value of the property. Therefore the fixation of the fair rent as such, is contrary to the provisions of the 'Act' and more so, the Petitioner was not afforded any opportunity to project his



objection before arriving at the figure of fair rent for the premises in occupation of the Petitioner.

6. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

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7. Since the main objection of the Petitioner is that the provisions of the Tamil Nadu Hindu Religious Charitable and Endowments Act, as indicated above, have been violated while fixing the fair rent for the subject property and the Petitioner was not issued with proper notice calling upon his explanation, I am of the view that the impugned order passed by the respondents cannot be countenanced in law and therefore, the writ Petition is allowed and the impugned orders of the respondents, dated 10.2.2017 and 15.3.2017 are set aside and the matter is remanded back to the first respondent for fresh consideration in terms of the Regulations of the Tamil Nadu Hindu Religious Charitable and Endowments Act, after giving ample opportunity to the Petitioner to express his views and objections, if any and the first respondent is directed to pass final orders, after hearing the Petitioner and after adhering to the relevant provisions of the Act and pass orders within a period of eight weeks from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar (CS-III)

/True copy/

Sub Assistant Registrar

To

The Joint Commissioner,
Tamil Nadu Hindu Religious Charitable and Endowment Board,
Sivagangai.

+2cc to Mr.D.Nallathampi, Advocate in SR.No:50359,50457

vsn

AE/JC/20.04.2017/3P/4C

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and

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