

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.8377 of 2018

A.Prabhakaran

.. Petitioner

-vs-

1. The Commissioner
Hindu Religious and Charitable
Endowment Administration Department
Nungambakkam
Chennai 600 034
 2. The Joint Commissioner (Admn.)
Hindu Religious and Charitable
Endowment Administration Department
Nungambakkam
Chennai 600 034
 3. The Executive Officer
A/m Selvavinayagar/Kothanda Ramar Temple
West Tambaram
Chennai 600 045
- .. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records of the third respondent pertaining to his Notice dated 26.02.2018 and quash the same and direct the second respondent to furnish the copy of his Na.Ka.No.2003/2017/A3 dated 13.03.2017.

For Petitioner :: Mr.B.Sivakumar
For Respondents :: Mr.M.Maharaja
Special Government Pleader
(H.R. & C.E)

ORDER

This writ petition has been filed questioning the notice dated 26.2.2018 issued by the Executive Officer of Arulmighu Selvavinayagar/Kothandaramar Temple, West Tambaram, Chennai, the third respondent herein demanding a sum of Rs.1,14,012/- as arrears of rent till 28.2.2018 from the petitioner, who is the occupier of the Shop No.16.

2. Learned counsel for the petitioner, admitting the status of the petitioner that he is a tenant in respect of the Shop No.16 in the land belonging to Arulmighu Selvavinayagar/Kothandaramar temple, for which the first respondent has fixed the fair rent for the shop, which is also being paid by the petitioner, submitted that the petitioner is aggrieved by the impugned notice issued by the third respondent, inasmuch as when the third respondent has fixed Rs.1,230/- as the rent payable per month by the petitioner from 1.7.2013 till 30.6.2013, a Committee was constituted for fixing the fair rent. Accordingly, on 1.7.2016, the said Committee has fixed a sum of Rs.7,100/- per month without issuing any notice whatsoever to the petitioner. The learned counsel further submitted that when the petitioner has been regularly paying the monthly rent at the rate of Rs.1,230/-, the third respondent, who is legally entitled to enhance the rent, is bound to do the same only after giving notice, which has not been done. Therefore, the impugned notice astronomically fixing the fair rent to the petitioner's shop at the rate of Rs.7,100/- per month and demanding a sum of Rs.1,14,012/- till 28.2.2018 is wholly unfair. The learned counsel for the petitioner also submitted that the respondents have unilaterally fixed the fair rent at Rs.7,100/- per month from 1.7.2016 onwards by issuing the notice dated 24.11.2017. However, on receipt of the same, the petitioner has immediately given her representation to the third respondent on 29.12.2017. Without passing any order thereon, the third respondent is keeping the said representation in cold storage. Hence, a direction be issued to the third respondent to pass appropriate orders.

3. Per contra, the learned Special Government Pleader for the respondents submitted that when the petitioner was paying the monthly rent at the rate of Rs.1,120/- with effect from 1.7.2013 to 30.6.2016, the petitioner was very well aware that the said amount of rent was fixed only for a specific period commencing from 1.7.2013 to 30.6.2016. Thereafter, the Committee has sat again and enhanced the rent at the rate of Rs.7,100/- per month from 1.7.2016 onwards. He also submitted that although the said order of enhancement dated 13.3.2017 was also communicated to the petitioner, without receiving any acknowledgment/endorsement from the petitioner, the learned Special Government Pleader submitted that the petitioner can always get the copy of the said order from the office of the third respondent. In spite of the communication of the decision for payment of the enhanced rent, without accepting the said amount of Rs.7,100/-, the petitioner on her own has enhanced the rent, without paying the enhanced rent of Rs.7,100/-. It was also submitted that the petitioner has given the representation only to the Executive Officer of the temple. In any event, since the rent has been fixed by the Committee, the petitioner

has a remedy before the first respondent under Section 34-A(3) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 and the writ petition cannot be entertained.

4. This Court also finds that the petitioner has got a better, effective and efficacious appeal remedy as against the impugned proceedings before the first respondent. Therefore, this Court is not inclined to entertain the writ petition. Accordingly, the writ petition is dismissed to avail the remedy under Section 34-A(3) of the Tamil Nadu Hindu Religious and Charitable Endowments Act before the first respondent. Consequently, W.M.P.Nos.10354 & 10366 of 2018 are also dismissed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True copy//

Sub Assistant Registrar

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To

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Endowment Administration Department
Nungambakkam
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3. The Executive Officer
A/m Selvavinayagar/Kothanda Ramar Temple
West Tambaram
Chennai 600 045

+1cc to Mr.B.Sivakumar, Advocate SR.No.26227
+1cc to Government Pleader SR.No.26435

W.P.No.8377 of 2018

PPA(CO)
GN(25/04/2018)