

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.8358 to 8362 of 2018

&

W.M.P.No.10342 to 10346 of 2018

S.Ramesh .. Petitioner in WP 8358 of 2018
S.Jayasekar .. Petitioner in WP 8359 of 2018
Gajaraj Chettiar ... Petitioner in WP 8360 of 2018
J.P.R.Bernard .. Petitioner in WP 8361 of 2018
M.Kothandaramar .. Petitioner in WP 8362 of 2018

-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 in all the petitions

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

ORDER

These writ petitions have been filed questioning the notices 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.1,74,424/-; Rs.1,38,094/-; Rs.1,23,736/-; Rs.1,19,056/- and Rs.1,10,357/- respectively as arrears of rent till 28.2.2018 from the petitioners, who are the occupiers of the Shop Nos.21 &22, 2, 19, 13 and 14.

2. Learned counsel for the petitioners, admitting the status of the petitioners that they are the tenants in respect of the Shop Nos. 21 &22, 2, 19, 13 and 14 in the land belonging to Arulmighu Selvavinayagar/Kothandaramar temple, for which the first respondent has fixed the fair rent for the shops, which is also being paid by the petitioners, submitted that the petitioners are aggrieved by the impugned notices issued by the third respondent, inasmuch as when the third respondent has fixed Rs.1,915/-, Rs.1,490/-, Rs.1,500/-, Rs.1,360/- and Rs.1215/- respectively as the rent payable per month by the petitioners 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.10,900/-; Rs.8,600/-; Rs.7,700/-; Rs.7,500/-; Rs.6,900/- respectively per month without issuing any notice whatsoever to the petitioners. The learned counsel further submitted that when the petitioners have been regularly paying the monthly rent at the rate of Rs.1,915/-; Rs.1,490/-; Rs.1,500/-; Rs.1,360/-; Rs.1,215/- respectively, 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 notices astronomically fixing the fair rent to the petitioners' shops at the rate of Rs.10,900/-; Rs.8,600/-; Rs.7,700/-; Rs.7,500/-; Rs.6,900/- respectively per month and demanding a sum of Rs.1,74,424/-; Rs.1,38,094/-; Rs.1,23,736/-; Rs.1,19,056/- and Rs.1,10,357/- respectively till 28.2.2018 are wholly unfair. The learned counsel for the petitioners also submitted that the respondents have unilaterally fixed the fair rent at Rs.10,900/-; Rs.8,600/-; Rs.7,700/-; Rs.7,500/-; Rs.6,900/- respectively per month from 1.7.2016 onwards by issuing the notices dated 24.11.2017. However, on receipt of the same, the petitioners have immediately given their representations to the third respondent on 29.12.2017. Without passing any order thereon, the third respondent is keeping the said representations 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 petitioners were paying the monthly rent at the rate of Rs.1,915/-; Rs.1,490/-; Rs.1,500/-; Rs.1,360/-; Rs.1,215/- respectively with effect from 1.7.2013 to 30.6.2016, the petitioners were 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.10,900/-; Rs.8,600/-; Rs.7,700/-; Rs.7,500/-; Rs.6,900/- respectively per month from 1.7.2016 onwards. He also submitted that although the said orders of enhancement dated 13.3.2017 were also communicated to the petitioners, without receiving any acknowledgment/endorsement from the petitioners, the learned Special Government Pleader submitted that the petitioners can always get the copies 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.10,900/-; Rs.8,600/-; Rs.7,700/-; Rs.7,500/-; Rs.6,900/- respectively, the petitioners on their own have enhanced the rent, without paying the enhanced rent of Rs.10,900/-; Rs.8,600/-; Rs.7,700/-; Rs.7,500/-; Rs.6,900/- respectively. It was also submitted that the petitioners have given their representations only to the Executive Officer of the temple. In any event, since the rent has been fixed by the Committee, the petitioners have 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 petitions cannot be entertained.

4. This Court also finds that the petitioners have got a better, effective and efficacious remedy as against the impugned proceedings before the first respondent. Therefore, this Court is not inclined to entertain the writ petitions. Accordingly, the writ petitions are 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.10342 to 10346 of 2018 are also dismissed. No costs.

Sd/-

Assistant Registrar(CS III)

//True copy//

Sub Assistant Registrar

gpa

To

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

+5cc to Mr.B.Siva Kumar, Advocate SR.No.27331

W.P.Nos.8358 to 8362 of 2018

SSD(CO)
GN(27/04/2018)



WEB COPY