

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.Nos.3777 to 3782 of 2018
and
WMP.Nos.4607 to 4617 of 2018

Muniammal
W/o.Natarajan .. Petitioner
(in WP.No.3777 of 2018)

J.Janbasha
S/o.Jakriya .. Petitioner
(in WP.No.3778 of 2018)

Jagir
S/o.Mammud .. Petitioner
(in WP.No.3779 of 2018)

Elayappan
S/o.Karuthappa Gounder .. Petitioner
(in WP.No.3780 of 2018)

Suresh
S/o.Kannan
.. Petitioner
(in WP.No.3781 of 2018)

M.Satishkumar
S/o.Muniraj .. Petitioner
(in WP.No.3782 of 2018)

Vs.

- 1.The Commissioner
Hindu Religious and Charitable Endowment Department
Nungambakkam, Chennai-600 034.
- 2.The Joint Commissioner
Hindu Religious and Charitable Endowment Department
Salem - 636 001.
- 3.The Assistant Commissioner
Hindu Religious and Charitable Endowment Department
Dharmapuri - 636 701.

4. Fit Person / Executive Officer
A/m. Karaga Samundiamman Temple
Krishnagiri - 635 001.

... Respondents
(in WP.Nos.3777 to 3782 of 2018)

Writ petition No.3777 of 2018 filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order of the first respondent passed in R.P.No.22 of 2017 dated 03.07.2017 and to quash the same and consequently, direct the first respondent to form a Fair Rent Committee and refer the matter to the same so as to fix fair rent for the petitioner residence at No.135, Chennai Salai, Krishnagiri - 635 001.

Writ petition No.3778 of 2018 filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order of the first respondent passed in R.P.No.23 of 2017 dated 03.07.2017 and to quash the same and consequently, direct the first respondent to form a Fair Rent Committee and refer the matter to the same so as to fix fair rent for the petitioner shop at Jakriya Radiator Works, No.255, Chennai Salai, Krishnagiri-635 001.

Writ petition No.3779 of 2018 filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order of the first respondent passed in R.P.No.19 of 2017 dated 03.07.2017 and to quash the same and consequently, direct the first respondent to form a Fair Rent Committee and refer the matter to the same so as to fix fair rent for the petitioner shop at JKR Vulcanizing Works, No.255-1/28-B, Chennai Salai, Krishnagiri - 635 001.

Writ petition No.3780 of 2018 filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order of the first respondent passed in R.P.No.18 of 2017 dated 03.07.2017 and to quash the same and consequently, direct the first respondent to form a Fair Rent Committee and refer the matter to the same so as to fix fair rent for the petitioner shop at Dhanalakshmi Auto Consulting & Battery Service, No.299/130, Chennai Salai, Krishnagiri - 635 001.

Writ petition No.3781 of 2018 filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order of the first respondent passed in R.P.No.20 of 2017 dated 03.07.2017 and to quash the same and consequently, direct the first respondent to form a Fair Rent Committee and refer the matter to the same so as to fix fair rent for the petitioner

shop at Kannan Motor Works, Chennai Salai, Krishnagiri - 635 001.

Writ petition No.3782 of 2018 filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order of the first respondent passed in R.P.No.21 of 2017 dated 03.07.2017 and to quash the same and consequently, direct the first respondent to form a Fair Rent Committee and refer the matter to the same so as to fix fair rent for the petitioner shop at Venkateswara Auto Electricals, Chennai Salai, Krishnagiri - 635 001.

For Petitioner : Mr.S.Subbiah,
Senior Counsel for M/s.G.Sumitra
(in WP.Nos.3777 to 3782 of 2018)
For Respondents : Mr.M.Maharaja
Special Government Pleader
(in WP.Nos.3777 to 3782 of 2018)

C O M M O N O R D E R

Mr.M.Maharaja, learned Special Government Pleader takes notice for the respondents. By consent of the parties, these writ petitions are taken up for final disposal at the admission stage themselves.

2. All these writ petitions are filed challenging the order passed by the first respondent under Section 21 of the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959 in disposing the revisions filed by the petitioners with certain terms and conditions.

3. The second respondent herein passed an order dated 30.11.2016, under Section 78 of the above said Act, directing the petitioners to vacate and hand over the vacant possession of their respective premises, by treating them as encroachers of the fourth respondent Temple property. The said order was challenged before the first respondent, by way of revision. The first respondent passed the impugned orders on 03.07.2017, by observing that the Temple has fixed the rent as per Section 34A of the above said Act and that the revision petitioners are ready and willing to pay the rent fixed by the temple administration and therefore, the petitioners are permitted to occupy the properties subject to the following conditions:

"(i) They should pay the monthly damages as stated in para(9) from the date of initiation of the proceedings U/s.78 of the Act with an annual enhancement at the rate of 5%.

(ii) They should pay 10 months damages as advance to safeguard the temple from any default in payment of damages in future.

(iii) They should not make any additions or alterations in the existing structure without prior permission of the competent authority.

(iv) They should not sublet the property.

(v) They should pay the monthly damages on or before 5th of every month.

(vi) They should pay the arrears within 3 months from the date of receipt of this order.

If the petitioners failed to comply with the above directions, the orders passed by the Joint Commissioner, Salem should be given effect. The revision petitions are hereby disposed of with the above directions."

4. Even thereafter, the petitioners have not paid the arrears of rent in spite of subsequent notice issued on 22.11.2017. On the other hand, they have filed the present writ petition before this Court.

5. The learned Senior Counsel appearing for the petitioners submitted that all these petitioners have made some part payment and however, they will be in a position to pay the balance rent only when the fair rent is fixed as further procedure contemplated under Section 34 A of the above said Act.

6. This Court, is not inclined to entertain these writ petitions for the following reasons:

(a) First of all, these petitioners are having an alternative remedy of statutory appeal / revision before the Government and therefore, without exhausting such alternative remedy, the petitioners are not entitled to canvass the correctness or otherwise of the order passed by the first respondent before this Court by way of these writ petitions.

(b) The petitioners are not entitled to say that they will pay the rent only, if the same is fixed under Section 34A of the said Act, especially, when the second respondent has passed the order of revision under Section 78 of the said Act, by treating them as encroachers. No doubt, that the first respondent has shown some indulgence and permitted the petitioners to occupy their respective portions of the properties, subject to the above stated terms and conditions. If the petitioners are not willing to comply with the said terms and conditions and still want to agitate the matter, it is for them to go before the Government by filing the statutory revision / appeal, as this Court,

is not inclined to entertain and consider all the above contentions raised by the petitioners at the present stage.

7. Therefore, all these writ petitions are disposed of, by granting liberty to the petitioners to file an appeal before the Government, within a period of two weeks from the date of receipt of a copy of this order. If any such appeal / revision is filed, the appropriate authority of the Government shall consider the same on its own merits and pass orders in accordance with law, without reference to the period of limitation. However, the petitioners are entitled to file such appeal / revision before the Government, only when they pay 50% of the total demand, including the arrears as on today to the fourth respondent Temple within the time stipulated for filing such appeal. If the petitioners do not comply with the above said condition, as directed by this Court, the liberty granted to them for filing such appeal / revision before the Government stands revoked automatically. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

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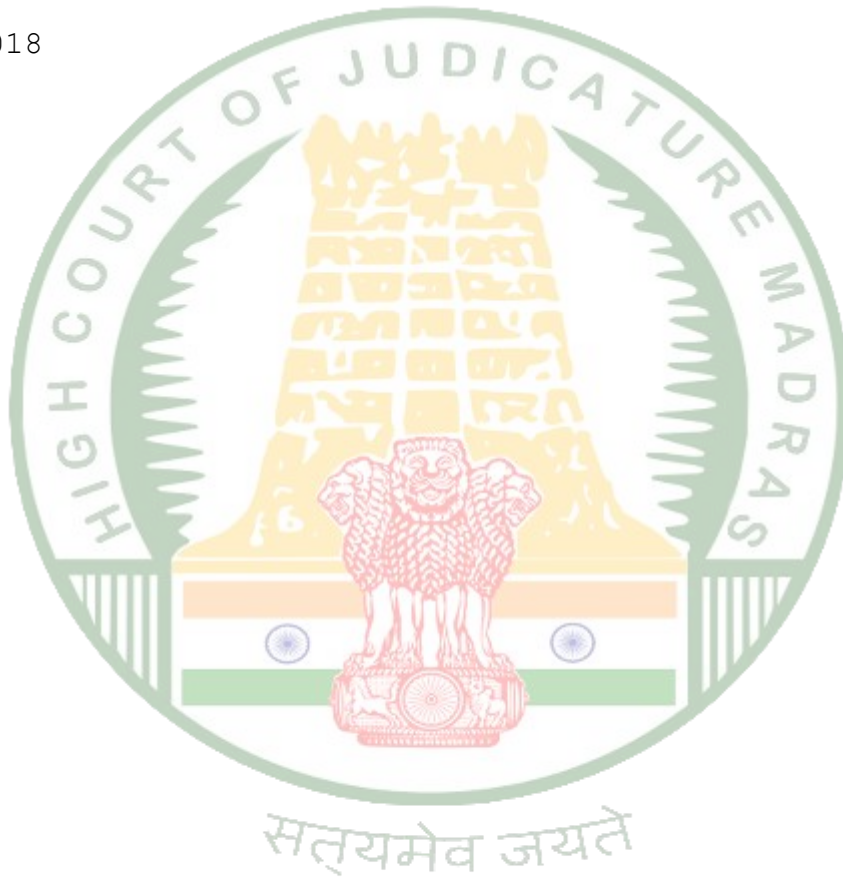
To

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A/m. Karaga Samundiamman Temple
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+6 ccs to Mr.G.Sumitra Advocate sr 13041 to 13044
+1 cc to Govt Pleader High Court Madras sr 13309

W.P.Nos.3777 to 3782 of 2018

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