

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2018

CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

WP.No.30517 of 2013
& M.P.No.1 of 2013

S.R.Ahamed Sulaiman

...Petitioner

Vs.

1. The Commissioner,
H.R. & C.E., Admn. Dept., Chennai - 34.
2. The Assistant Commissioner,
H.R. & C.E., Admn. Dept., Kanchipuram.
3. The Executive Officer,
Arulmigu Thirukkachi Nambigal &
Varadarajaperumal Temple, Poonamallee. ...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to call for the entire records connected with the order in R.P.No.31 of 2002 D2, dated 03.10.2013 passed by the 1st respondent and quash the same, consequently, direct the 3rd respondent to fix the fair rent.

For Petitioner : Mr.S.Silambanan, Senior Counsel
for Mr.T.Sathiyaseelan

For Respondents: Mr.M.Maharaja, Spl.G.P. (HR & CE) (for RR1 & 2)
Mr.A.K.Sriram
for M/s.A.S.Kailasam & Associates (for R3)

ORDER

This Writ Petition has been filed challenging the order of the Commissioner, HR & CE, Chennai dated 03.10.2013.

2. The respondents initiated proceedings against the petitioner under Section 78 of the HR & CE Act, treating the petitioner as a trespasser. The Joint Commissioner, HR & CE, Vellore ordered eviction and directed the petitioner to hand over the possession within a period of 30 days.

3. Assailing the said order, the petitioner preferred a Revision. The Commissioner, HR & CE, by an order dated 03.10.2013, having held that the petitioner is an encroacher, however, directed the Temple Authorities to fix a fair rent and in the event the petitioner accepts payment of fair rent and settles the entire arrears of rent, recommended for regularisation.

4. The learned Senior counsel for the petitioner submitted that the petitioner is ready to pay the fair rent fixed by the Commissioner, HR & CE. It is further submitted that admittedly the land belongs to the Temple and the fact the petitioner is the owner of the superstructure, could be taken into consideration while fixing the rent as well as arrears.

5. The learned Special Government Pleader (HR & CE) submitted that the proceedings under Section 78 were initiated in the year 1999, but till now, the petitioner has been squatting on the property without paying any rent. It is further submitted that the fair rent will be fixed as per Section 34 (A) of the HR & CE Act.

6. In the light of the submissions of the learned counsels on either side and also taking note of the order of the Commissioner, HR & CE, the respondents are directed to fix the rent in accordance with Section 34 (A) of the HR & CE Act and communicate the same to the petitioner. On such receipt, the petitioner shall pay the revised rent regularly from the date of the communication and the entire arrears shall be paid within twelve weeks. In the event of non compliance, this order would automatically stand cancelled with out any further reference to this Court and the respondents are entitled to take possession from the petitioner.

7. With the above observation and direction, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS V.)

/true copy/

Sub Asst. Registrar

pvs

To

1. The Commissioner,
H.R. & C.E., Admn. Dept., Chennai - 34.
2. The Assistant Commissioner,
H.R. & C.E., Admn. Dept., Chennai - 34.
3. The Executive Officer,
Arulmigu Thirukkachi Nambigal &
Varadarajaperumal Temple, Poonamallee.

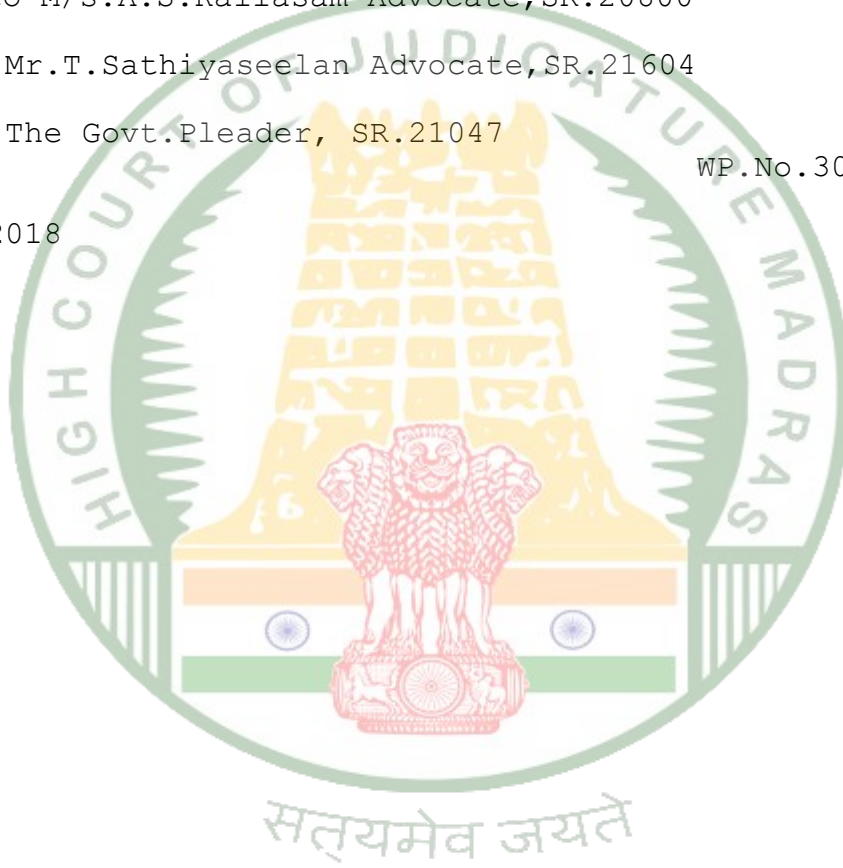
+ 1 cc to M/s.A.S.Kailasam Advocate, SR.20800

+ 1 cc to Mr.T.Sathiyaseelan Advocate, SR.21604

+ 1 cc to The Govt.Pleader, SR.21047

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