

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2018

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

W.P.No. 24019 of 2018 and
W.M.P No.27981 of 2018

K.S.Sankaran

.. Petitioner

Vs

1. The Commissioner,
Hindu Religious and Endowments Board
Uttamar Gandhi Salai,
Nungambakkam, Chennai - 600 034
2. The Joint Commissioner,
Hindu Religious and Endowments Board,
Uttamar Gandhi Salai,
Nungambakkam, Chennai - 600 034
3. The Assistant Commissioner,
Hindu Religious and Endowments Board,
Uttamar Gandhi Salai,
Nungambakkam, Chennai - 600 034
4. The Executive Officer,
Sri Hanumantha Vahana Kattalai
Attached to Kothanda Ramasamy Temple,
West Mambalam, Chennai - 33

..Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned orders dated 29.06.2018 and the consequential order dated 07.08.2018 passed by the 4th respondent and quash the same and consequently direct the respondents to fix enhanced rent strictly in terms of G.O.Ms.No.456 dated 09.11.2007.

For Petitioner : Mr.K.Ramu

For Respondents : Mr.M.Maharaja
Special Government Pleader

O R D E R

The petitioner has come up with this writ petition seeking a direction to call for the records pertaining to the impugned orders dated 29.06.2018 and the consequential order dated 07.08.2018 passed by the 4th respondent and quash the same and consequently direct the respondents to fix rent in terms of G.O.Ms.No.456 dated 09.11.2007.

2. According to the petitioner, he was earlier served with the notice dated 22.02.2017 seeking his objection to fix fair rent at Rs.42,786/- per month. In consequence, the petitioner has filed his objection. However, without considering the same a final order has been passed on 01.03.2018 to recover a sum of Rs.7,43,632/-. Challenging the same, the petitioner has preferred a W.P.No.8295 of 2018 before this Court and on 18.04.2018, the said Writ Petition was disposed of by setting aside the order dated 01.03.2018 and directed the respondent to issue fresh notice. Thereafter, a fresh notice was issued on 29.06.2018 stating that the fair rent payable as fixed by the committee is at Rs.42,800/- and directed to file objection within 15 days. The petitioner filed a detailed objection on 16.07.2018 and without considering the same, the 4th respondent has passed the impugned order on 07.08.2018 by fixing fair rent at Rs.42,800/- per month by taking into account the earlier show cause notice dated 29.06.2018, and with further direction to pay the arrears.

3. This Court on 24.10.2018 appointed an Advocate Commissioner to ascertain the prevailing rent in that area and the factual position of the property in question. Today, viz., 02.11.2018, the said Advocate Commissioner has filed a detailed report along with photographs.

4. Heard the submissions of the learned counsel on either side and perused the report of the Advocate Commissioner as well as the documents filed by the learned Special Government Pleader for the respondents. According to the petitioner, no opportunity was granted before fixing the rent, however, he is ready and willing to pay a portion of the amount and the learned Special Government Pleader for respondents submits that an opportunity will be granted to put forth their case.

5. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this Court is inclined to set aside the impugned orders dated 29.06.2018 and the consequential order dated 07.08.2018 passed by the 4th respondent on condition that the petitioner remits a portion of arrears, viz., a sum of Rs.3,00,000/- [Rupees Three Lakhs only] and on such payment, the petitioner shall appear before the Competent Authority /

Committee on 19.11.2018 with all necessary documents and agitate all his grievances before the committee and on such appearance and after affording personal hearing to the petitioner, the committee shall pass appropriate orders fixing the rent payable. However, it is made clear that the amount of Rs.3,00,000/- paid by the petitioner shall be adjusted with the arrears payable, if any, upon fixation of fair rent by the Committee.

6. Accordingly, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

ssd

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

To

1. The Commissioner,
Hindu Religious and Endowments Board
Uttamar Gandhi Salai,
Nungambakkam, Chennai - 600 034
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Sri Hanumantha Vahana Kattalai
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West Mambalam, Chennai - 33

+1CC Mr.K.Ramu, Advocate SR.NO.76204
+1cc The Government Pleader SR.NO.76339

W.P.No. 24019 of 2018 and
W M P No.27981 of 2018

PP(CO)
KAK(29/11/2018)

02.11.2018

` (CO)

SM(27/11/2017) (CO)
SM(27/11/2017)



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