



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD) No. 9234 of 2018andW.M.P(MD).Nos.8534 and 12183 of 2018

N.Valavanthan

... Petitioner

vs.

1.The Commissioner

Hindu Religious & Charitable Endowments Board
Nungambakkam, Chennai

2.The Joint Commissioner

Hindu Religious & Charitable Endowments Board
Sivagangai Region
Sivagangai

3.The Trustee

Arulmghu Subramaniaswamy Temple
Kamuthi

The Executive Officer

Hindu Religious & Charitable Endowments Board
Arulmighu Meenakshi Chokkanathar Temple
Chokkalingapuram

Aruppukottai Taluk, Virudhunagar District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorari, calling for the proceedings, dated Nil.07.2017 and Nil on the file of the 3rd respondent herein issued to the petitioner in respect of Door No.21, 22, 22/1, Agraharam Street, Kamuthi, Ramanathapuram District and quash the same.

For Petitioner

: Mr.Y.Prakash

For R1 & R2

: Mr.N.Shanmuga Selvam

Additional Government Pleader

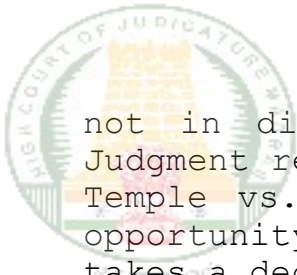
For R3

: Mr.Mahendren

O R D E R

The grievance of the petitioner is that the third respondent enhanced the monthly rent to an exorbitant sum of Rs.9370/- without giving any opportunity to the petitioner for his objection. Hence, he filed the present Writ Petition.

2.The rent was enhanced for the petitioner's premises by the third respondent committee. No opportunity was given to the petitioner calling for his objection. This aspect of the matter is



not in dispute. The Hon'ble Division Bench of this Court in a Judgment reported in (2009) 4 MLJ 1223 (A.A.P & Kasivishwanathaswami Temple vs. State of T.N), has already indicated that sufficient opportunity should be extended to the lessee before the committee takes a decision to enhance the rent.

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3. Pursuant to the Division Bench order, this Court has also passed various orders holding that when the rent is fixed under Section 34-A of the Hindu Religious and Charitable Endowments Act, 1959 the lessee should be given an opportunity to put forth his objection with regard to enhancement. The present enhancement of rent without notice to the petitioner calling for objection is in violation of principle of natural justice and as such the petitioner is entitled to succeed.

4. In the result, the Writ Petition stands allowed and the impugned proceedings dated Nil.07.2017 and Nil on the file of the third respondent is quashed and the entire issue is remanded back to the second respondent who shall refer the matter to the committee for fixing the rent afresh. It is made clear that the committee shall not fix the final rent without calling for the petitioner's objection and any enhancement is made, shall be done after due consideration of the objection, if any.

5. With these observations, the Writ Petition is allowed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(Writs)

/True Copy/

Sub Assistant Registrar(CS-II)

To :

1. The Commissioner

Hindu Religious & Charitable Endowments Board
Nungambakkam, Chennai

2. The Joint Commissioner

Hindu Religious & Charitable Endowments Board
Sivagangai Region, Sivagangai.

+1cc to M/S.Y.Prakash, Advocate SR.No. 72447

+1cc to M/S.P.Mahendren, Advocate SR.No. 72570

W.P. (MD) No. 9234 of 2018

and

W.M.P (MD) .Nos.8534 and 12183 of 2018

11.07.2018