



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

WEB COPY

W.P. (MD) No.13565 of 2018

and

W.M.P. (MD) No.12357 of 2018

Mohammed Abdul Khader

: Petitioner

Vs.

The Joint Commissioner/Executive Officer,
Arulmigu Meenakshi Sundareswarar Temple,
Madurai.

: Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records of the respondent dated 10.05.2018 in proceedings Na.Ka.No.809/2018/E3, quash the same, as the same is arbitrary, ultravires and consequentially, direct the respondent to fix the fair rent in respect of Shop No.33-A, Atchaya Mandapam, Madurai, in compliance with Sec.34-A of Act 22/1959 taking into consideration the prevailing market rental value on the basis of the lease deed produced by the petitioner in respect of the private buildings in the same locality.

For Petitioner

: Mr.R.G.Shankar Ganesh

For Respondent

: Mr.VR.Shanmuganathan,
Special Government Pleader

ORDER

The fair rent fixed by the Joint Commissioner/Executive Officer, Arulmigu Meenakshi Sundareswarar Temple, Madurai, in his proceedings in Na.Ka.No.809/2018/E3, dated 10.05.2018 is under challenge before this Court.

2. According to the petitioner, the Fair Rent Committee has not taken into account the lease deed submitted by him and has fixed exorbitant rent on the basis of lease amount fixed for the shops auctioned for a fixed tenure. The manner in which the fair rent fixed is contrary to law and does not reflect the market rental value. Therefore, the learned counsel would submit that it should be set aside and the Fair Rent Committee be directed to consider the lease deed submitted by the petitioner and thereafter, to fix the fair rent.

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3. Per contra, the learned Special Government Pleader



appearing for the respondent would contend that the fair rent was fixed on the basis of the existing market rental value, the prevailing rentals collected by the private shop owners of that area and also on the basis of the auction amount with respect to the shops belonging to the same temple. Therefore, the fair rent fixed following the scientific rationale is in accordance with law and as per the directions of this Court. It is also contended that as per Section 34-A(3) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, there is an appeal remedy available to the petitioner against the order of the Joint Commissioner. Without exhausting the appeal remedy, the petitioner is not entitled to maintain the Writ Petition under Article 226 of the Constitution of India.

4. I have considered the rival contentions.

5. Admittedly, there is an appeal remedy available as per Section 34-A(3) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. The petitioner shall exhaust the appeal remedy and without exhausting the same, he cannot maintain the Writ Petition. Therefore, the Writ Petition is not maintainable and accordingly, it is dismissed.

6. However, considering the facts and circumstances of the above Writ Petition, liberty is granted to the petitioner to prefer an appeal before the appellate authority, within a period of fifteen days from the date of receipt of a copy of this order, on a condition that the petitioner deposits 50% of the arrears of fair rent fixed by the original authority and continues to pay 50% of the fair rent every month without default till the disposal of appeal. On such deposit, within fifteen days, if appeal is preferred, the appellate authority is directed to dispose of the appeal on merits, within a period of three months, in compliance with the principles of natural justice. It is made clear that this order shall not be treated as a precedent in respect of other cases. If appeal is not filed within fifteen days, it is open to the respondent to proceed in accordance with law. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

The Joint Commissioner/Executive Officer,
<https://hcservices.apcourts.gov.in/hcservices/>
 Arumiga Neenakshi Sundareswarar Temple,
 Madurai.



Copy to:

The Section Officer,
ER Section,
Madurai Bench of Madras High Court,
Madurai-23

Sml

MK/MMS/SAR 4/02.08.2018/3P/3C

Order made in
W.P. (MD) No.13565 of 2018

Dated: 24.07.2018

(10/16)