



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 31.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH
W.P.(MD) No.16848 of 2018

and

W.M.P.(MD) Nos.14875 & 14876 of 2018

M.Rajasekaran

... Petitioner

vs.

1.The Joint Commissioner
Hindu Religious and Charitable
Endowments Department
B-1 Road, Ellis Nagar, Madurai-625 016

2.The Executive Officer
Arulmighu Kattu Pathirakaliamman Temple
Venkatasamudram, Thirumangalam Taluk
Madurai District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the records of the impugned orders of the second respondent dated 14.5.2018 and 11.7.2018 and quash the same as illegal and consequently direct the respondents to re-fix the fair rent after affording reasonable opportunity to the petitioner.

For Petitioner : Mr.R.R.Kannan

For Respondents : Mr.J.Gunaseelan Muthiah

Additional Government Pleader for R1
Mr.R.Manohar for R2

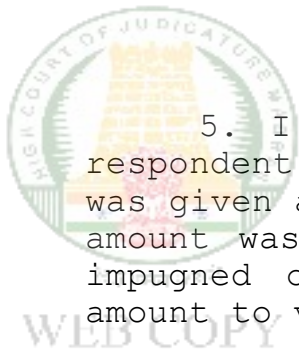
O R D E R

Mr.J.Gunaseelan Muthiah, learned Additional Government Pleader, takes notice for the first respondent and Mr.R.Manohar, learned counsel, takes notice for the second respondent.

2. By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

3. Among the various grounds raised in the present writ petition, the main ground is that the petitioner was not granted prior opportunity while the impugned orders came to be passed.

4. It is the case of the petitioner that he had purchased the subject property in the year 1990 and pursuant to that he has put up a construction and is also running a match factory in the premises. He has all along been in possession of the subject property and the present fixation of the lease amount with retrospective effect is in violation of principles of natural justice.



5. I have perused the impugned orders passed by the second respondent herein. There is nothing to indicate that the petitioner was given an opportunity to put forth his objections before the lease amount was fixed and the impugned demand was made. As such, the impugned orders, without any opportunity to the petitioner will amount to violation of principles of natural justice.

6. Though the petitioner has raised various other grounds challenging the impugned orders, I am of the view that since the petitioner was deprived of the opportunity before the impugned orders came to be passed, it would be appropriate to remand back the matter to the second respondent for the purpose of fresh consideration after giving due opportunity to the petitioner. In view of such a decision, it would not be appropriate to render my findings on the other grounds.

7. In the result, the writ petition is allowed and the impugned orders, dated 14.05.2018 and 11.07.2018, passed by the second respondent, are quashed. The matter is remanded back to the second respondent for fresh consideration after giving due opportunity to the petitioner. Such an exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/
Assistant Registrar(CS-II)

/True copy/

Sub Assistant Registrar(CS-III)

To:
The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
B-1 Road, Ellis Nagar,
Madurai-625 016.

+1cc to Mr.S.MANO HAR, Advocate, SR.No.76306
+1cc to Mr.RR. KANNAN, Advocate, SR.No.75847
+1cc to M/s.Special Government Pleader, SR.No. 76255

W.P.(MD) No.16848 of 2018
and
W.M.P.(MD) Nos.14875 & 14876 of 2018
31.07.2018

KRK