



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.11.2018

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P (MD) No.23631 of 2018

and

W.M.P (MD) No.21419 of 2018

Kamuthayammal

..Petitioner

Vs

1.Hindu Religious and Charitable Endowment Department,
Rep. By its Commissioner,
Mahatma Gandhi High Road,
Nungambakkam,
Chennai - 600 034.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Madurai.

3.The Executive Officer,
Arulmigu Natarajar Thirukoil,
Hindu Religious and Charitable Endowment Department,
Nilakottai Town & Taluk,
Dindigul District.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the order dated 08.11.2018 passed by the third respondent, quash the same and consequently forbearing the respondents in any manner interfering with the petitioner's right in respect of the house bearing Door No.12/3/17 Chathira Street, Natarajapuram, Nilakottai Town and Taluk, Dindigul District.

For Petitioner

:Mr.P.Arun Jayatram

For R-1 & R-2

:Mr.V.Anand,

Government Advocate

For R-3

:Mr.M.Muthugeethayan for

Mr.A.K.Baskarapandian

ORDER

The petitioner prayed for issuance of a Writ of Certiorarified Mandamus to quash the order dated 08.11.2018 passed by the third respondent and further direct the respondents not to interfere with the petitioner's right in respect of the house bearing bearing Door No.12/3/17, Chathira Street, Natarajapuram, Nilakottai Town and



Taluk, Dindigul District.

2. The case of the petitioner as stated in the affidavit is as follows:

(i) The petitioner is in possession and enjoyment of the house in Survey No.248/B1 situated at Door No.12/3/17, Chathira Street, Natarajapuram, Nilakottai Town and Taluk, Dindigul District, to an extent of 521 sq. ft. Originally, vacant land was let out by the third respondent to the petitioner during the year 1975. Thereafter, the petitioner put up a dwelling house and she is in possession and occupation of the said house till date. The petitioner is also paying the monthly rent regularly to the respondents without any default. The rent was supposed to increase from 0.02% to 0.10% and fair rent was decreased from 33.3% to 15% for determination of the fair rent considering the value of the property in terms of G.O.No.298 dated 20.07.2010.

(ii) However, the Government Order was given retrospective effect from the year 2007. Likewise the rent has been enhanced 15% once in three years. When that being so, the third respondent issued a notice dated 16.10.2018 under Sections 78 & 79 of the HR & CE Act, increasing the rent from Rs.455/- to Rs.4,168/- and immediately thereafter, the third respondent passed the impugned order to terminate the tenancy stating that it would be cancelled on 31.10.2018.

(iii) The third respondent had stated in the impugned order that the arrears of enhanced amount of Rs.1,12,260/- from 01.07.2016 to 30.09.2018 is to be paid on or before 30.11.2018. After that, the petitioner has also paid the entire old arrears of rent of Rs.10,080/- on 19.11.2018 and Rs.840/- on 22.11.2018.

(iv) According to the petitioner, increase of lease amount from Rs.445/- to Rs.4,168/- is unreasonable and there is violation of principles of natural justice and the impugned order is passed without even invoking Sections 34(A) and 34(B) of the Tamil Nadu Hindu Religious and Charitable Endowment Act. Hence, she challenged the said order by way of filing this writ petition raising various grounds.

3. The learned counsel appearing for the petitioner submitted that the petitioner is ready to pay the entire arrears of rent, within a period of four weeks.

4. At this juncture, it represented on behalf of the respondents that the petitioner is using the premises for commercial purpose, without any permission.

5. In view of the said submissions, the petitioner is directed to pay RS.36,000/- , on or before 21 December, 2018 and the remaining amount is to be paid within four weeks from the date



of paying the first installment. It is made clear that in case the petitioner failed to pay the first installment, the respondents can proceed against the petitioner in accordance with law. If the respondents are of the opinion that the petitioner is running a commercial building without any permission, appropriate proceedings can be initiated and if they are satisfied that the same can be let out for commercial purpose and then appropriate proceedings can be initiated. The petitioner is also directed to continue to pay the enhanced rent every month.

5. The writ petition is disposed of with the above direction. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(cs-III)

/True Copy/

Sub Assistant Registrar(cs-IV)

To

- 1.Hindu Religious and Charitable Endowment Department,
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Mahatma Gandhi High Road,
Nungambakkam,
Chennai - 600 034.
- 2.The Joint Commissioner,
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Madurai.
- 3.The Executive Officer,
Arulmigu Natarajar Thirukoil,
Hindu Religious and Charitable Endowment Department,
Nilakottai Town & Taluk,
Dindigul District.

+1cc to Mr.M.Muthugeethayan Advocate in SR.No.97437

+1cc to Mr.P.Arun Jayatram Advocate in SR.No.97667

+1cc to Special Government Pleader, SR.No.97609

W.P (MD) No.23631 of 2018
28.11.2018

PM

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