

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2019

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

W.P. 27063 of 2004

Scientific Advance Company,  
No.38, (Old No.109),  
Apparswamy Koil Street,  
Mylapore,  
Chennai-600 004.

... Petitioner

Versus

1. The Hereditary Trustee,  
Arulmigu Apparswamy Koil,  
No.171, Royapettah High Road,  
Mylapore,  
Chennai-600 004.

2. The Commissioner,  
Hindu Religious & Charitable  
Endowments Department,  
Administration Department,  
Chennai-600 034.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the 2<sup>nd</sup> respondent, pertaining to the order in so far as it relates to the order dated 19.07.2004 in R.P. No.151/2003D2, in confirming the proceedings of the 1<sup>st</sup> respondent dated 01.10.2003 and quash the same and forbear the 1<sup>st</sup> respondent from claiming the rent at Rs.9,229/- per month with effect from 01.11.2001.

For Petitioner : Mr.M.Balachandar

For Respondents : Mr.G.Sugumaran for R1

Mr.M.Maharaja,  
Special Govt. Pleader for R2

## O R D E R

This Writ Petition has been filed challenging the order passed by the 1<sup>st</sup> respondent revising the lease amount.

2. The petitioner is a lessee under the 1<sup>st</sup> respondent and even though the property was residential in nature, it was used for commercial purpose. According to the petitioner, the 1<sup>st</sup> respondent Executive Officer has arbitrarily revised the lease amount without following the procedures contemplated under Sec.34-A of the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959 (hereinafter called as 'Act') and fixed the monthly rent at the rate of Rs.9,229/-. The 2<sup>nd</sup> respondent appellate authority has also without considering the case in proper perspective has confirmed the order.

3. Mr. G.Sugumaran, learned counsel appearing for the 1<sup>st</sup> respondent submitted that the petitioner is using the premises for commercial activities, and the 1<sup>st</sup> respondent on considering the prevailing market value and taking into consideration of overall circumstances, the 1<sup>st</sup> respondent has revised the lease amount from Rs.3500/- to Rs.9229/-.

4. I have considered submissions made by the learned counsel appearing for the petitioner as well as the learned counsel appearing for the 1<sup>st</sup> respondent and perused the records carefully.

5. Admittedly, the order has been passed by the hereditary trustee on 01.10.2003. But, under Sec.34-A of the Act, which came into force on 10.05.2003, the lease is to be fixed by the Committee consisting of Joint Commissioner, Executive Officer, Trustee or Chairman of Board of trustees and the Registration Department of the District and after taking into account of the privileged market value and the guidelines. But, in the instant case, after Sec.34-A of the Act came into force, without following the procedures contemplated under the Act, the hereditary trustee has fixed the lease amount. It is in total contravention of Sec.34-A of the Act and on that sole ground, the impugned order is liable to be set aside. Hence, the impugned order dated 19.07.2004 passed by the 2<sup>nd</sup> respondent in R.P. No.151/2003D2 confirming the proceedings of the 1<sup>st</sup> respondent dated 01.10.2003 is set aside and the matter is remanded back to the 1<sup>st</sup> respondent. The 1<sup>st</sup> respondent is directed to follow the procedures contemplated under Sec.34-A of the Act and refix the lease amount. It is submitted by the learned counsel appearing for the respondents that the petitioner now paying the monthly rent of Rs.9229/- as fixed by the 1<sup>st</sup> respondent in the impugned order and hence, he has to continue to pay the amount till the order passed by the

committee. Considering his submissions, the petitioner is directed to pay the lease amount at the rate of Rs.9229/- till the order passed by the 1<sup>st</sup> respondent under Sec.34-A of the Act. Accordingly, the present Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

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To

1. The Hereditary Trustee,  
Arulmigu Apparswamy Koil,  
No.171, Royapettah High Road,  
Mylapore,  
Chennai-600 004.
2. The Commissioner,  
Hindu Religious & Charitable  
Endowments Department,  
Administration Department,  
Chennai-600 034.

+1cc to Mr.Balachander, Advocate, S.R.No. 80504  
+1cc to Mr.Sugumaran, Advocate, S.R.No. 80134  
+2cc to the Government Pleader, S.R.No. 81246

W.P. 27063 of 2004

MG (CO)  
GN (31/10/2019)

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