

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2019

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 8459 of 2018

and

W.M.P.Nos. 10404, 10405 and 23251 of 2018

1.Daivasigamani
2.P.Srinivasan
3.R.Muralikrishnan
4.G.Rajeshwari
5.D.Mangaiyarkarasi
6.A.R.Sophy
7.K.Karpagam
8.M.Omprakash
9.Thirunavukarusu
10.Sethuparvathy
11.D.Prabhakaran
12.Logaiah.J
13.V.Balan
14.Ashok Sen Mungara
15.Usha Sen Mungara
16.Jessy Babu
17.G.Sundarambal
18.S.Raja
19.M.S.Ramana
20.G.Arumugam
21.K.Nithya

... Petitioners

-vs-

1.Hindu Religious & Charitable Endowment,
Rep. By Commissioner,
Nungambakkam High Road,
Nungambakkam, Chennai 600 034.

2.The Executive Officer,
Joint Commissioner/Executive Officer,
Arulmigu Arunachaleswarar Temple,
Thiruvannamalai 606 601.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the Second Respondent's

impugned notices dated 21.02.2018 and 15.03.2018, issued to the Petitioners' property seeking for the enhanced rent w.e.f. 01.07.2016 and to quash the same and consequently, direct the Second Respondent to form a committee in terms of Section 34 A and fix the rent for each of the Petitioner's property.

For Petitioners: Mr. Richardson Wilson

For Respondents: Mr. M. Maharaja,
Special Government Pleader, for R1

M/s. A.S. Kailasam Associates, for R2

O R D E R

Learned Counsel for the Petitioner submits that the notices impugned in this Writ Petition have been issued to the Petitioners demanding payment of the increased fair rent under Section 34-A of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, (hereinafter referred to as 'the Act'), but on a perusal of the same, it could be seen that it has not been issued by the Committee consisting of the Joint Commissioner, the Executive Officer of the Religious Institution and the District Registrar of the Registration Department in the District concerned as required under clause (1) of Section 34-A of the Act, which vitiates the same.

2. Learned Special Government Pleader appearing for the First Respondent submits that the impugned notices are consequential orders indicating the decision taken by the Committee fixing the fair rent consisting of the Joint Commissioner, the Executive Officer of the Religious Institution and the District Registrar of the Registration Department and has produced copies of the proceedings in that regard, the receipt of which is acknowledged by the Learned Counsel for the Petitioner.

3. In response to the specific query raised by this Court, it is informed by the Learned Special Government Pleader appearing for the First Respondent that the aforesaid proceedings of the said committee had not been communicated to the Petitioners either separately or along with the impugned notices.

4. It is further submitted by the Learned Special Government Pleader appearing for the First Respondent that the Petitioners have an effective alternate remedy to challenge the impugned notices before the Commissioner invoking clause (3) of Section 34-A of the Act with satisfactory proof of pre-deposit required in the proviso to Section 34-A of the Act.

5. In view of the aforesaid submissions made, Learned Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petition with liberty to prefer appeal before the Commissioner under clause (3) of Section 34-A of the Act along with the pre-deposit.

6. Accordingly, the Writ Petition is dismissed as withdrawn granting such liberty. It is made clear that having regard to the pendency of the Writ Petition, and the fact that copies of the proceedings of the Committee fixing the fair rent had not been furnished to the Petitioners earlier, the impugned orders shall be treated as having been served on the respective Petitioners today for the purpose of computation of limitation for filing such appeals. No costs.

gsa/maya

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Commissioner,
Hindu Religious & Chaeritable Endowment,
Nungambakkam High Road,
Nungambakkam, Chennai 600 034.

2.The Executive Officer,
Joint Commissioner/Executive Officer,
Arulmigu Arunachaleswarar Temple,
Thiruvannamalai 606 601.

+1cc to Mr.Richardson Wilson, Advocate, SR.No.79238

W.P. No. 8459 of 2018

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