

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2019

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.12216 of 2019

and

W.M.P.No.12497 of 2019

S.Varalaxmi Srinivasan

... Petitioner

Vs.

1.The Commissioner

The Hindu Religious and Charitable Endowment Board
Nungambakkam'
Chennai-600 034.

2.The Executive Officer

Arulmigu Sri Kandasami Kovil
also known as Sri Muthukumaraswamy Devasthanam
No.44, Rasappa Chetty Street,
Park Town, Chennai-600 003.

... Respondents

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 2nd respondent dated 08.04.2019 calling upon the petitioner to pay the sum of Rs.4,18,680/- being the alleged fair rent arrived retrospectively in respect of the premises situated at Door No.136, Rasappa Chetty Street, Park Town, Chennai-600 003, pending appeal before the 1st respondent bearing Disc.No.29521/2018 and quash the same and consequently, restrain the respondents from further action based on the said notice.

For Petitioner : Mr.A.Palaniappan

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

O R D E R

Mr.M.Maharaja, learned Special Government Pleader takes notice for the first respondent. Since this writ petition is being disposed of without affecting the interest of the second respondent, notice to the said respondent is dispensed with.

2. The petitioner is aggrieved against the notice dated 08.04.2019 issued by the second respondent, demanding a sum of Rs.3,98,930/- towards rental arrears.

3. Heard both sides.

4. It is seen that the second respondent has fixed the fair rent and made a demand of Rs.3,04,350/- upto 31.03.2018, being the arrears of rent payable by the petitioner by issuing a demand notice as early as on 25.04.2018. On receipt of such payment and aggrieved against fixation of fair rent, the petitioner preferred an appeal before the first respondent on 31.05.2018. However, it appears that the said appeal was presented without complying with the mandatory requirement of depositing the rent so fixed, as contemplated under Section 34-A (5) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. Since the petitioner has not complied with the said mandatory requirements, the present impugned demand was issued by the second respondent.

5. I do not find any infirmity as against the said demand made by the second respondent, since the petitioner has not complied with the mandatory requirement of Section 34-A(5) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, while presenting the appeal. Therefore, the appeal itself is a defective one. However, as it is stated that the first respondent-Appellate Authority has not rejected the appeal so far, in order to give an opportunity to the petitioner to contest the matter on merits, this Writ Petition is disposed of as follows:

(a) The petitioner shall pay the sum of Rs.3,98,930/- to the second respondent within a period of seven days from today and on such payment and after receiving a receipt for the same from the second respondent, the petitioner shall file such proof of payment before the first respondent-Appellate Authority, within a period of seven days thereafter.

(b) On receipt of such proof for payment as stated supra, the first respondent-Appellate Authority shall take up the appeal and dispose the same on its own merits and in accordance with law, within a period of eight weeks thereafter.

(c) If the petitioner fails to make the payment within the time stipulated as supra, the first respondent shall reject the appeal, as not maintainable. The above payment directed to be paid is without prejudice to the contention of either parties.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS VIII)

//True Copy//

Sub Assistant Registrar

mk

To

1.The Commissioner
The Hindu Religious and Charitable Endowment Board
Nungambakkam
Chennai-600 034.

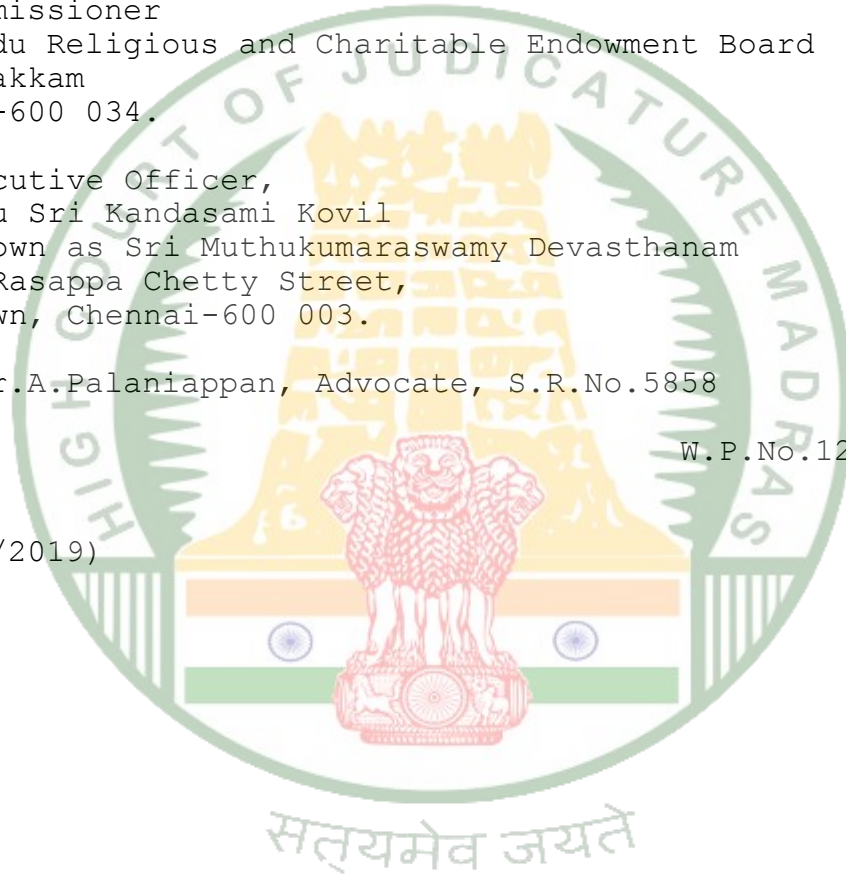
2.The Executive Officer,
Arulmigu Sri Kandasami Kovil
also known as Sri Muthukumaraswamy Devasthanam
No.44, Rasappa Chetty Street,
Park Town, Chennai-600 003.

+1cc to Mr.A.Palaniappan, Advocate, S.R.No.5858

W.P.No.12216 of 2019

SPD(CO)

RRS (25/04/2019)



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