

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2019

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.19472 of 2019  
and  
W.M.P.No.18964 of 2019

1. Mansukh H.Sukhadia  
Proprietor,  
M/s. Mansukhlal Mithaiwala  
No.313 Mint Street,  
Chennai- 600003.
  2. Kinzal M.Sukhadia .... Petitioners
- Vs.
1. The Commissioner,  
Hindu Religious and Endowments Board,  
Uttamar Gandhi Salai,  
Nungambakkam,  
Chennai - 600034.
  2. The Joint Commissioner,  
Hindu Religious and Endowments Board,  
Uttamar Gandhi Salai,  
Nungambakkam, Chennai - 600034.
  3. The Executive Officer,  
Arulmigu Ekambareswarar Temple,  
No.315, Mint Street,  
Chennai - 600013. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus to call for the records pertaining to the impugned orders dated 23.04.2019 and the consequential impugned orders dated 05.06.2019 passed by the third respondent and quash the same and consequently, direct the respondents to fix fair rent strictly in terms of G.O.Ms.No.456 dated 09.11.2007 in accordance with law.

For Petitioners: Mr.K.Ramu  
For Respondents: Mr.M.Maharaja [R1 & R2]  
Special Government Pleader (HR&CE)  
Mr.R.Mahalingam [R3]

ORDER

The writ petition has been filed in the nature of certiorarified Mandamus, to quash the order dated 23.04.2019

and the consequential impugned orders dated 05.06.2019 passed by the third respondent - Executive Officer, Arulmigu Ekambareswarar Temple, Mint Street, Chennai and consequently, direct the respondents to fix fair rent strictly in terms of G.O.Ms.No.456 dated 09.11.2007.

2. There are two writ petitioners, the father and the son. The first petitioner is the original tenant, under the third respondent - Arulmigu Ekambareswarar Temple. The second petitioner assumes right on the basis that he is looking after the business. But whether, the third respondent has recognized the second petitioner as a tenant or not, is a mute question.

3. This Court, at this stage, is not expressing any opinion on the same.

4. It is stated that the impugned orders have been passed on the basis that the petitioners have encroachers. On 19.11.2019 the learned Special Government Pleader appearing for the HR&CE had taken time to ascertain, whether any fair rent has been fixed under Section 34-A of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 and has been communicated to the petitioners and if communicated, to produce the proof of the same.

5. Today, the learned Special Government Pleader appearing for HR&CE has produced a communication for reference of this Court stating that on 02.08.2019, fair rent had been fixed for the premises and it has been communicated and the copy of the acknowledgement card also had been produced and it is also stated that the petitioners may raise their objections for the said fixation of fair rent.

6. It is stated by the learned counsel appearing for the petitioners that fixation of rent is beyond the scope of the writ petition.

7. Since the fair rent has been fixed, the impugned orders would not stand anymore and consequently, the same is quashed. However, the petitioners are directed to give their objection to the fair rent fixed vide order dated 02.08.2019 which has already been communicated to them, on or before 31.01.2020. Thereafter, the respondents may pass appropriate orders with respect to the fair rent already fixed by them.

8. Accordingly, the writ petition is disposed of. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (JJ Act)

//True Copy//

Sub Assistant Registrar

To

1. The Commissioner,  
Hindu Religious and Endowments Board,  
Uttamar Gandhi Salai,  
Nungambakkam,  
Chennai - 600034.
2. The Joint Commissioner,  
Hindu Religious and Endowments Board,  
Uttamar Gandhi Salai,  
Nungambakkam,  
Chennai - 600034.
3. The Executive Officer,  
Arulmigu Ekambareswarar Temple,  
No.315, Mint Street,  
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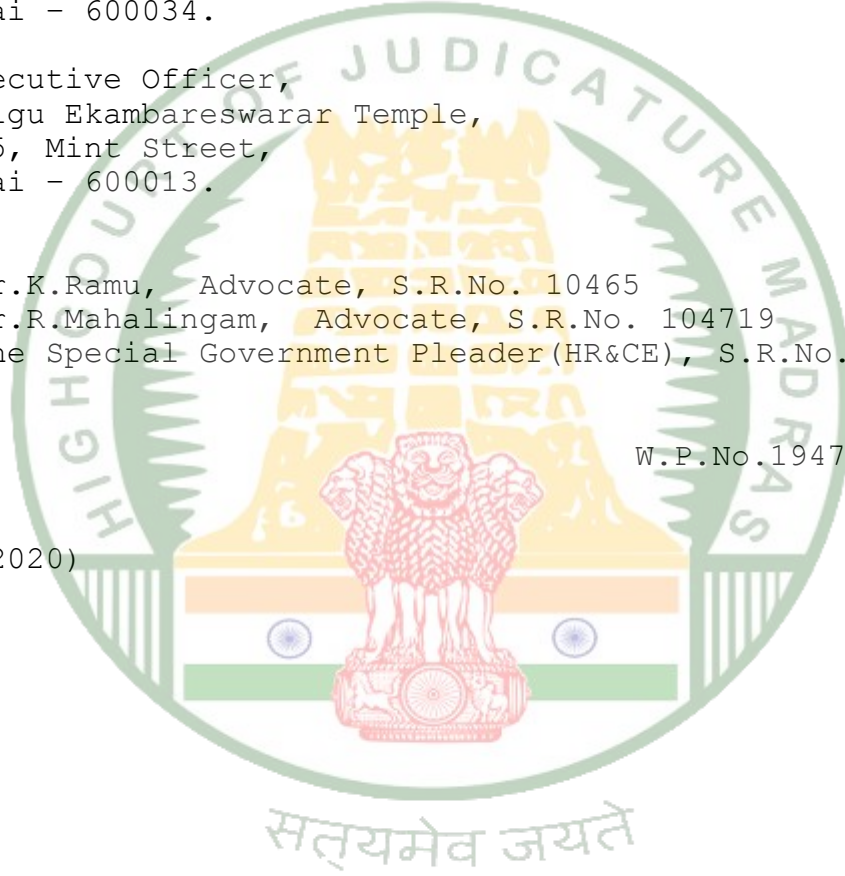
+1cc to Mr.K.Ramu, Advocate, S.R.No. 10465

+1cc to Mr.R.Mahalingam, Advocate, S.R.No. 104719

+1cc to the Special Government Pleader(HR&CE), S.R.No. 105421

W.P.No.19472 of 2019

SPD(CO)  
GN(12/02/2020)



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