



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P(MD)No.22917 and 23130 of 2019

and

W.M.P(MD)Nos.19655, 19659 to 19661 of 2019

in W.P. (MD) .No.22917 of 2019

AND

WM.P. (MD) .Nos.19849, 19851 to 19853 of 2019

in W.P. (MD) .No.23130 of 2019

S.Rajendran

... Petitioner in both W.Ps

Vs.

1.The Commissioner

Hindu Religious and Charitable Endowment,
The Administration Department
Chennai-34.

2.The Joint Commissioner

O/o. The Joint Commissioner
Hindu Religious and Charitable Endowment,
Madurai.

3.The Executive Officer,

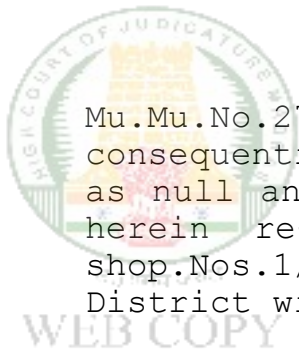
Arulmigu Santhakula Sowmiya
Narayana Kavaraya Trust
No.1, Gandhi Road,
Palani, Dindigul District.

... Respondents in both

W.Ps

PRAYER in W.P. (MD) .No.22917 of 2019: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Declaration to declare the order dated 28.04.2017 in Mu.Mu.No.2727/2017 A4 on the file of respondent No.2 and the consequential notice dated 08/07/2019 on the file of respondent No.3 as null and void and consequently direct the respondent Nos.1 to 3 herein re-fix the monthly rent of the petitioner's shop at shop.Nos.1/25 at Gandhi Road, Palani town, Dindigul District within the time frame stipulated by this Court.

PRAYER in W.P. (MD) .No.23130 of 2019: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Declaration to declare the order dated 28.04.2017 in



Mu.Mu.No.2727/2017 A4 on the file of respondent No.2 and the consequential notice dated 08/07/2019 on the file of respondent No.3 as null and void and consequently direct the respondent Nos.1 to 3 herein re-fix the monthly rent of the petitioner's shop at shop.Nos.1/9 and 1/31 at Gandhi Road, Palani town, Dindigul District within the time frame stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mrs.J.Padmavathy Devi
Special Government Pleader
for RR-1 & 2

Mr.M.Muthu Geethaiyan
Standing Counsel for R-3
(in both W.Ps)

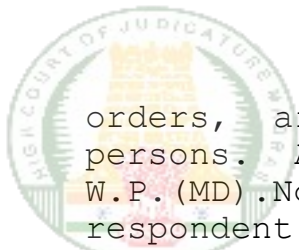
COMMON ORDER

Mrs.J.Padmavathy Devi, learned Special Government Pleader takes notice for the respondents 1 & 2. Mr.M.Muthu Geethaiyan, learned Standing Counsel takes notice for respondent No.3.

2. By consent of both sides, the writ petition is taken up for final disposal.

3. The petitioner is a tenant in respect of shop Nos.1/25, 1/9 and 1/31 situated at Gandhi Road, Palani town, Dindigul District under the third respondent. The fair rent was fixed by the Fair Rent Committee in the year 2015. Challenging that, the petitioner filed a suit. It is the contention of the petitioner that the said fair rent fixation was not communicated to him and for the purpose of producing certain documents, proceedings in Mu.Mu.No.2727/2017 A4, dated 28.04.2017 is required for him. Since the same is not served on him, he sought a copy of the same under the Right to Information Act and the same was furnished to the petitioner on 03.09.2019. Even though the petitioner states that he is not aware of the order dated 28.04.2017, he was furnished a copy of the order on 06.09.2019. If at all he wants to challenge the order, he should have filed an appeal before the first respondent within a period of 30 days under sub-section 3 of Section 34-A of the Hindu Religious and Charitable Endowments Act. Whereas challenging the same, this petition has been filed beyond the period of 30 days from the date of receipt of the impugned order.

4.The materials produced before the Court reveal that the other shop owners have agitated the fixation of fair rent in W.P.(MD). Nos.8475 to 8483 of 2011 and this Court, by an order dated 08.08.2011, directed the respondent to rehear the matter and pass



orders, after giving opportunity to all the similarly placed persons. Again, another batch of writ petitions came to be filed in W.P.(MD).Nos.18500 to 18503/2019 for the purpose of directing the respondent No.3 to collect the rent from the petitioners. Thereafter, notices were issued by the respondent to all the tenants and one such notice issued by the Fit Person of the Trust dated 06.10.2018. All these proceedings go to show that the petitioner was put on notice from 2017 onwards. In that event, he cannot feign ignorance of the proceedings with regard to fixation of fair rent.

5. The learned Counsel appearing for the petitioner would contend that in W.P.(MD).No.23130/2019, the petitioner has put up a superstructure and therefore, fair rent should be fixed, after taking into consideration of the infrastructures made by him.

6. Be that as it may, when an appeal remedy is provided under sub-section 3 of Section 34-A of the Hindu Religious and Charitable Endowments Act, it is incumbent on the petitioner to agitate the matter before the competent authority. Without exhausting the appeal remedy, he is not entitled to approach this Court. Even the factum that he has put up construction and that he is entitled to agitate fixation of fair rent, as per Sections 23 and 24 of the Land Acquisition Act also should be canvassed before the appellate authority.

7. In such circumstances, the petitioner is directed to comply with pre-conditions of filing appeal and the present the appeal within a period of two weeks from the date of receipt of a copy of this order. In the event of the appeal being filed within a period of two weeks, the first respondent is directed to consider the same and pass orders in compliance with principles of natural justice, within a period of four weeks thereafter.

8. Accordingly, the writ petitions are disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar (P&A)

// True Copy //

Sub Assistant Registrar(CS)

vs

<https://hcservices.ecourts.gov.in/hcservices/>



To

1.The Commissioner
Hindu Religious and Charitable Endowment,
The Administration Department
Chennai-34.

2.The Joint Commissioner
O/o. The Joint Commissioner
Hindu Religious and Charitable Endowment,
Madurai.

+2 CC to M/s.M.MUTHUGEETHAYAN, Advocate (SR-95774 & 95775[F] dated 04/11/2019)

+1 CC to M/s.SPL GP (SR-96078 & 96080[F] dated 05/11/2019)

+2 CC to M/s.T. LAJAPATHI ROY, Advocate (SR-96261 & 96262[F] dated 06/11/2019)

W.P (MD) No.22917 and 23130 of 2019
and

W.M.P (MD) No.19607 of 2019
04.11.2019

JMN(15.11.2019) 4P : 8C