

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2020

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. Nos.30446 and 30447 of 2008
and
M.P. Nos.1, 1 & 2, 2 of 2008

B.Padma ...Petitioner in W.P. No.30446 of 2008

V.Srinivasan ... Petitioner in W.P. No.30447 of 2008

Vs

1.The State of Tamil Nadu,
Rep. By its Secretary,
Tamil Development, Charitable
Endowment and Information Department (A.Nee, 4-2),
Fort St. George, Chennai 600 009.

2. The Joint Commissioner/Executive Officer,
Arulmighu Kabaleeswarar Thirukoil,
Mylapore, Chennai 600 004. ...Respondents in both WPs

Common Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Certiorarified Mandamus to call for the records relating to the impugned G.O.(D) No.456 dated 09.11.2007 passed by the 1st respondent and the consequential order made in Na.Ka.No.280/2008-59/A4 dated 10.10.2008 and Na.Ka.508/2008/A4/10 & Na .Ka .No.508/2008/A4/11 respectively dated 03.12.2008 passed by the 2nd respondent and quash the same and forbear the respondents from claiming any arrears from the petitioner if any.

For Petitioner : Mr.G.Ethirajulu
For Respondents : Mr.M.Karthikeyan,
Special Government Pleader (HR&CE) for R1
Mr.P.Dineshkumar for R2

C O M M O N O R D E R

The petitioners challenge orders dated 10.10.2008 calling upon them to remit arrears of rent in regard to the properties at B & C Block No.4, Venkatesa Agraharam Road, Mylapore, of an extent of 10166 sq. ft. of land along with building of equal ex-

tent, comprising ground and first floor (property in question). The petitioner in W.P.No.30447 of 2008 is stated to have been passed away on 24.07.2017, but in light of the order that I have passed, I find no necessity to bring on record his legal heirs at this juncture.

2. According to the learned counsel for the petitioners, the impugned order has been passed without hearing either of the petitioners. The order is accompanied by a statement which sets out the details of alleged arrears computed for various periods commencing from 01.07.2001. The fixation of rent from 2001 to 2007 is set out column wise. However, no opportunity has been afforded prior to the fixation of rent. Admittedly, possession of the property has been handed over in 2018 to the temple and also admittedly, there are arrears to be remitted, the proper determination of which, remains.

3. No counter has been filed by the temple despite the elapse of twelve (12) years. However, learned counsel appearing for the temple, on instructions, does not dispute the position that the impugned order has been passed without hearing the petitioners. In light of the same, authorised representatives of the petitioner in W.P.No.30446 of 2008 and legal heirs of the petitioner in W.P.No.30447 of 2008, will appear before the Executive Officer on Wednesday, the 2nd day of December, 2020 at 10.30 a.m. without awaiting any further notice in this regard. Quantum of arrears of rent shall be fixed after adequate opportunity is afforded and the petitioners/legal heirs heard in full. The impugned order is set aside and an order determining the arrears, as aforesaid, shall be passed de novo after hearing the petitioners, within six (6) weeks from 02.12.2020.

4. With the aforesaid directions, these writ petitions are closed. No cost. Connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

ska/sl

To

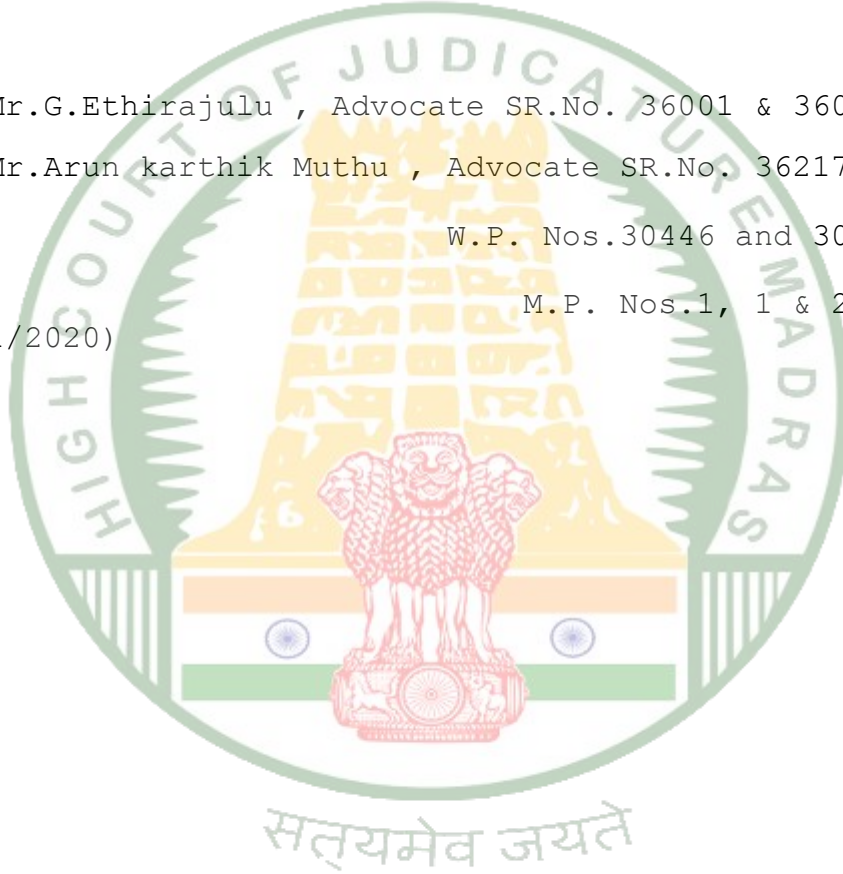
- 1.The Secretary,
State of Tamil Nadu,
Tamil Development, Charitable
Endowment and Information Department (A.Nee, 4-2),
Fort St. George, Chennai 600 009.
2. The Joint Commissioner/Executive Officer,
Arulmighu Kabaleeswarar Thirukoil,
Mylapore, Chennai 600 004.

+2ccs to Mr.G.Ethirajulu , Advocate SR.No. 36001 & 36002

+2ccs to Mr.Arun karthik Muthu , Advocate SR.No. 36217 & 36218

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A.SK(23/11/2020)



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