



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.14753 of 2020

and

W.M.P (MD)Nos.12413 & 12415 of 2020

WEB COPY

A.Rajkumar

... Petitioner

Vs

1. The Joint Commissioner
Hindu Religious and Charitable Endowment Department,
Madurai.
2. The Assistant Commissioner
Hindu Religious and Charitable Endowment Department,
Dindigul.
3. The Executive Officer
Arulmigu Kamatchiamman Temple,
Thenkarai, Periyakulam,
Theni District.

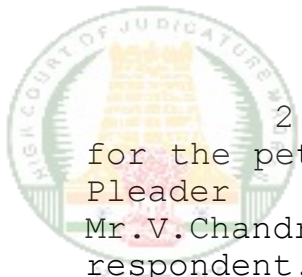
... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating with impugned notice, dated 29.10.2019 issued by the third respondent and quash the same consequently and directing the respondents to fix monthly rent of the petitioner's tenancy vacant land in Survey No.2348/182 to an extent of 14175 sq. ft. in Tenkarai, Periyakulam, Theni District as per the Tamil Nadu Hindu Religious and Charitable Endowments Act.

For Petitioner	: Mr.R.Suriyanarayanan
For R-1 & R-2	: Mr.K.P.Narayanakumar, Special Government Pleader
For R-3	: Mr.V.Chandrasekhar

ORDER

This writ petition has been filed challenging the impugned notice, dated 29.10.2019, issued by the third respondent, calling upon the petitioner, who is the occupant of the vacant land in Survey No.2348/182, measuring an extent of 14175 Sq. Ft. at Thenkarai, Periyakulam, Theni District, to pay a sum of Rs.23,22,250/- and in default vacate and hand over vacant possession to the third respondent.



2. Heard Mr.R.Suriyanarayanan, learned counsel appearing for the petitioner, Mr.K.P.Narayanakumar, learned Special Government Pleader appearing for the respondents 1 and 2 and Mr.V.Chandrasekhar, learned Counsel appearing for the third respondent.

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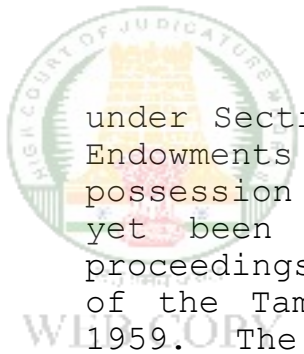
3. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

4.It is the contention of the petitioner that without any prior notice and without following the due procedure contemplated under the provisions of the Tamil Hindu Religious and Charitable Endowments Act, 1959, the impugned demand has been made against the petitioner. However, Mr.K.P.Narayanakumar, learned Special Government Pleader representing the respondents 1 and 2 would submit that fair rent has been fixed in respect of the petitioner's tenancy by the respondents under Section 34-A of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, and the impugned notice has been issued to the petitioner only based on the fair rent fixed by the Tamil Nadu Hindu Religious and Charitable Endowment Department.

5. Mr.V.Chandrasekar, learned counsel appearing for the third respondent would submit that the petitioner's tenancy is yet to be terminated and only after the termination of the tenancy, eviction proceedings will be initiated against the petitioner as per the provisions of the Tamil Nadu Hindu Religious and Charitable Endowments Act.

6. Admittedly, as seen from the impugned notice, there is a reference to the order, dated 16.09.2018, passed by a Committee headed by the Joint Commissioner, Tamil Nadu Hindu Religious and Charitable Endowment Department. According to the learned Special Government Pleader appearing for the respondents 1 and 2, the order, dated 16.09.2018, refers to an order fixing the fair rent on the petitioner's tenancy as per the provisions of Section 34-A of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. According to the learned counsel for the petitioner, the said order was not received by the petitioner.

7. Admittedly, under the provisions of the Tamil Nadu Hindu Religious and Charitable Endowments Act 1959, any person aggrieved by an order fixing fair rent under Section 34-A of the said Act, shall file an appeal before the Commissioner, the Tamil Nadu Hindu Religious and Charitable Endowment Department under Section 34-A(3) of the said Act. Instead of preferring the statutory appeal, as prescribed under Section 34-A(3) of the said Act, the petitioner has filed this writ petition, challenging the impugned notice, which was issued by the respondents based upon the fixation of fair rent, under Section 34-A of the said Act. The petitioner seeks liberty to



under Section 34-A of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. The petitioner's interest with regard to his possession of the property is protected, since his tenancy has not yet been terminated by the third respondent and eviction proceedings are yet to be initiated against him under the provisions of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. The apprehension of the petitioner is that he may be evicted from the premises, pursuant to the impugned notice is uncalled for as the respondents can evict him only in accordance with the procedure established under the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. The impugned notice is only a consequential notice pursuant to the fixation of fair rent under Section 34-A of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. Hence, without challenging the fixation of fair rent under Section 34-A(3) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, challenge to the impugned consequential notice is not maintainable.

8. For the foregoing reasons, the writ petition is dismissed. However, liberty is granted to the petitioner to challenge the order, dated 16.09.2018, passed by the Committee, headed by the Joint Commissioner, the Tamil Nadu Hindu Religious and Charitable Endowment Department, before the Commissioner, the Tamil Nadu Hindu Religious and Charitable Endowment Department. The first respondent is directed to serve a copy of the order, dated 16.09.2018 passed in மு.மு.எண்.4588/2018/அ4, to the petitioner within a period of one week from the date of receipt of a copy of this order. On receipt of the same, the petitioner is directed to file the statutory appeal before the Commissioner, Tamil Nadu Hindu Religious and Charitable Endowment Department, under Section 34-A (3) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, within a period of two weeks thereafter. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.



To

1. The Joint Commissioner
Hindu Religious and Charitable Endowment Department,
Madurai.

2. The Assistant Commissioner
Hindu Religious and Charitable Endowment Department,
Dindigul.

+1 CC to the SPL GP (SR-20802[F] dated 02/11/2020)

W.P. (MD) No.14753 of 2020
28.10.2020

BK(CO)
CS(10.11.2020) 4P 4C