



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.11.2020

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P(MD) .No.15378 of 2020

and W.M.P. (MD) .Nos.12917 & 12919 of 2020

The Secretary,
Subbarayalu Memorial Middle School,
Alwarpuram, Ramarayar Mandapam,
Madurai

.. Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
119, Uthamar Gandhi Salai,
Nungambakkam, Chennai - 600 034.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Madurai.

3.The Executive Officer,
Arulmighu Kallalagar Thirukovil,
Alagarkoil, Melur Taluk, Madurai District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the impugned order passed by the 3rd respondent under Na.Ka.No.979/2018-134/A3, dated 24.05.2018 and its consequential impugned order of the 3rd respondent under Na.Ka.No.326/2019/Ramarayar Kattalai, dated 08.03.2019, both pertaining to enhancement of rent is concerned and to quash the same as illegal and direct the 2nd and 3rd respondents to re-fix the proper enhancement of rent with prospective effect in accordance with law, in the light of G.O.Ms.No.456, Tamil Development, Tourism, Culture and Religious Endowment Department, dated 09.11.2007 and G.O.Ms.No.353, Tamil Development, Tourism, Culture and Religious Endowment Department, dated 04.06.1999.

For Petitioner

: Mr.M.Kannan

For Respondents

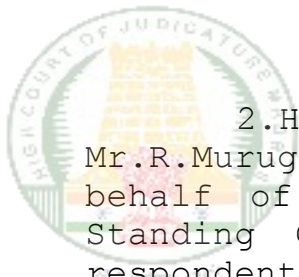
: Mr.R.Murugaraj for R1 and R2
Government Advocate
Mr.K.R.Laxman for R3
Standing Counsel

ORDER

(This writ petition is heard through Video Conference)

This writ petition has been filed challenging the order dated 24.05.2018, passed by the third respondent and the consequential order dated 08.03.2019.

<https://hccourt.gov.in/>



2. Heard Mr.M.Kannan, learned counsel for the petitioner, Mr.R.Murugaraj, learned Government Advocate, who accepts notice on behalf of the respondents 1 and 2 and Mr.K.R.Laxman, learned Standing Counsel, who accepts notice on behalf of the third respondent.

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3. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

4. According to the petitioner, the third respondent has fixed fair rent exorbitantly under Section 34(A) of the Tamilnadu Hindu Religious and Charitable Endowments Act, without giving any notice to the petitioner. According to the petitioner, the third respondent has not adhered to the principles of natural justice. It is also their contention that they are running the said School on a non profit basis. Further, it is their case that the enhancement of the rent has been made retrospectively, which is not in accordance with law. It is also contended by the petitioner that the existing rent paid by the petitioner is a reasonable one and the petitioner has been paying the said rent regularly without committing any default. In such circumstances, this writ petition has been filed.

5. The matter is now well settled by the decision of the Division Bench of this Court in the case of *Arulmigu Angala Parameswari and Kasivishwanathaswami Temple Adimanaiveal House Owners Asso. Vs. The State of Tamil Nadu & Others* reported in (2009) 3 L.W. 728, which has laid down the procedure to be followed for revising the lease rent in terms of Section 34(A)(2) of the Hindu Religious and Charitable Endowments Act. As per the aforesaid Division Bench Judgment, notice will have to be given to the tenants before fixing fair rent under Section 34(A)(2) of the Hindu Religious and Charitable Endowments Act. The learned Standing Counsel for the third respondent on instructions would submit that no notice was given to the petitioner before passing the impugned order, fixing the fair rent. In such circumstances, since the third respondent has not followed the procedure established under law before fixing of fair rent under Section 34(A)(2) of the Tamilnadu Hindu Religious and Charitable Endowments Act, the impugned orders will have to be necessarily quashed and the matter is remanded back to the third respondent for fresh consideration in accordance with law.

6. For the foregoing reasons, the impugned order passed by the 3rd respondent under Na.Ka.No.979/2018-134/A3, dated 24.05.2018 and its consequential impugned order of the 3rd respondent under Na.Ka.No.326/2019/Ramarayar Kattalai, dated 08.03.2019 are hereby quashed and the matter is remanded back to the third respondent for fresh consideration, who shall pass final orders on merits and



in accordance with law, after giving sufficient opportunity to the petitioner to raise all contentions with regard to the fixation of fair rent, under Section 34(A) of the Tamilnadu Hindu Religious and Charitable Endowments Act, within a period of twelve weeks from the date of receipt of a copy of this order.

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7. With the aforesaid directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// 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 Commissioner,
Hindu Religious and Charitable Endowments Department,
119, Uthamar Gandhi Salai,
Nungambakkam, Chennai - 600 034.
2. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Madurai.
3. The Executive Officer,
Arulmighu Kallalagar Thirukovil,
Alagarkoil, Melur Taluk, Madurai District.

+1 CC to SGP (SR-21460[F] dated 06/11/2020)

W.P (MD) .No.15378 of 2020
05.11.2020

CK (CO)

KM (23.11.2020) 3P 5C