



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2021

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. No. 16623 of 2021 and
W.M.P.No.17618 of 2021

P.Lakshmi Ammal

... Petitioner

Vs

1. The Commissioner,
Hindu Religious and Charitable Endowments Department,
Uttamar Gandhi Salai,
Nungambakkam,
Chennai - 34.
 2. The Joint Commissioner,
Office of the Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Uttamar Gandhi Salai,
Nungambakkam,
Chennai - 34.
 3. Arulmigu Velleeswarar Temple,
Rep.By its Managing Trustees,
No.30, South Mada Street,
Mylapore, Chennai - 600 004.
- ... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the 3rd respondent in Letter No.237/1430/dated 02.02.2021 and quash the same and to direct the 1st respondent to fix fair rents to the property belonging to the temple by constituting a Fair Rent Fixation Committee as per Section 34A of the HR&CE Act,1959 thereby protecting the interest of the petitioner from illegal eviction by the 3rd respondent.

For Petitioner : Mrs.H.Lucia Priyadarshini

For Respondents : Mr.S.Yashwanth
Addl. Government Pleader
(for R1 & R2)

Mr.S.Kumaran
Standing counsel (for R3)



O R D E R

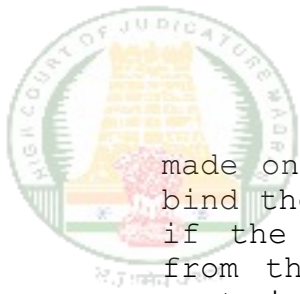
The prayer sought for herein is for a writ of certiorarified mandamus to call for the records relating to the impugned order passed by the 3rd respondent in Letter No.237/1430/dated 02.02.2021 and quash the same and to direct the 1st respondent to fix fair rents to the property belonging to the temple by constituting a Fair Rent Fixation Committee as per Section 34A of the H.R.&C.E. Act, 1959 thereby protecting the interest of the petitioner from illegal eviction by the third respondent.

2. The petitioner is a tenant of the property belongs to the third respondent temple to the extent of 1229.25 sq.ft. In respect of the said property in the year 2004, the monthly rent was fixed at Rs.100/-. It was revised in 2008 at Rs.1,080/-, further revised in 2012 at Rs.1,242/- and thereafter it was also revised in 2015 to Rs.1,620/- and in 2018 the revision was Rs.2,700/-. Thereafter, on 01.01.2019 further revision has been made, by which, the monthly rent was fixed at Rs.6,150/-. Till such revision, there has been no quarrel between the petitioner and the third respondent and the petitioner has started paying the rent.

3. When that being so, the further revision has been made on 01.07.2021 to the extent of Rs.8,000/- per month and subsequently, since there has been an arrears of rent payable by the petitioner from February 2021 till August 2021 that has been calculated and accordingly a communication has been issued on 02.02.2021 to the petitioner stating that, the petitioner was in arrears of Rs.49,200/- as on 31.01.2021 and therefore, that arrears should be paid and also the petitioner should deposit a sum of Rs.8,000/- towards the security deposit. These compliance should be made on or before 15.02.2021, otherwise the lease would be cancelled. Aggrieved over the said order dated 02.02.2021, passed by the third respondent temple, the present writ petition has been filed.

4. Heard Mrs.H.Lucia Priyadarshini, learned counsel appearing for the petitioner who would submit that, when this writ petition came up for hearing, on earlier occasions, this Court, after having calculated the arrears of amount, directed to pay the said arrears of amount. Accordingly, the petitioner also paid a sum of Rs.6,150/- on 24.08.2021 and Rs.24,600/- on 18.08.2021 and obtained the receipts from the third respondent temple which have been produced before this Court by way of additional typed set of papers.

5. The learned counsel for the petitioner would further contend that, insofar as the enhancement of the rent from Rs.6,150/- to Rs.8,000/- per month from 01.07.2021 is concerned, such an enhancement has not been made by the Committee constituted in this regard under Section 34 A of the H.R.&C.E Act. Therefore, such an unilateral revision, if any,



made on behalf of the third respondent temple, that would not bind the petitioner. Hence, on the basis of such revised rent, if the third respondent temple demands the arrears of rent from the petitioner and to continue to pay the same revised rent in the future months by the petitioner is bad in law. Therefore, the impugned order is unsustainable, accordingly on that ground, the learned counsel for the petitioner seeks indulgence of this Court against the impugned order.

6. Heard Mr.S.Yashwanth, learned Additional Government Pleader appearing for respondents 1 and 2 and Mr.S.Kumaran, learned Standing Counsel appearing for the third respondent. The learned Additional Government Pleader having received the written instructions dated 13.09.2021 from the third respondent temple has pointed out by relying upon the said instruction that, the rental arrear from the month of February 2021 till August 2021 was Rs.46,750/-. In this regard, the revised rent of Rs.8,000/- per month from 01.07.2020 was also taken into account.

7. The learned Standing Counsel appearing for the third respondent would submit on further instruction that, the petitioner not only had been in arrear of rent but also has sublet the premises to some third party which is in violation of the lease condition. Therefore, on that ground, action can be taken against the petitioner to terminate the lease.

8. I have considered the said submissions made by the learned counsel appearing for the parties and perused the materials placed before this Court.

9. Insofar as the rent fixed at Rs.6,150/- sometime in 2019, there has been no quarrel as the petitioner accepted the same and continued to pay the same. However, the grievance of the petitioner is that, the enhancement made from 01.07.2021 for a sum of Rs.8,000/- per month was an unilateral enhancement without exhausting the procedure as contemplated under Section 34A of the Act and therefore, that kind of enhancement alone is questioned by the petitioner.

10. In this regard, the learned Standing Counsel appearing for the third respondent, on instruction, would contend that, if at all the rent has been enhanced from 01.07.2021 without referring the matter to the Committee constituted in this regard under Section 34A of the Act, certainly, such a procedure would be followed hereafter and the matter can be referred to the Committee for fixing the revised rent, where, the Committee may give an opportunity of being heard to the petitioner as well as the third respondent temple and accordingly, the revised rent would be fixed and till such time, the petitioner should pay the pre-revised rent of Rs.6,150/- per month without fail. In this regard, the third respondent on instruction would submit that, there has been an arrear of Rs.43,050/- even upto August 2021 and



thereafter, from September onwards upto this date, further arrears are there, out of which, the petitioner had admittedly paid only about a sum of Rs.30,750/-. Therefore, the remaining arrear amount even as per the pre-revised rent shall be paid upto date by wiping out the arrears by the petitioner, on that condition, the third respondent is ready and willing to refer the matter for revision of rent to the Committee constituted in this regard.

11. Having regard to the said stand taken by the third respondent temple and having taken into account the subsequent development where considerable amount towards the arrears of rent since has been paid by the petitioner in August 2021 and September 2021, this Court is inclined to pass the following order in this Writ petition.

That the impugned order need not be given effect to as the petitioner already come forward to pay the arrears of rent based on the pre-revised monthly rent of Rs.6,150/- wherein Rs.30,750/- upto August 2021 had been paid and the remaining arrears to the tune of Rs.10,000/- to Rs.15,000/- or more till date as arrears have to be paid by the petitioner within a period of 10 days from the date of receipt of a copy of this order. On such payment that is completely wiping out the arrears as per the pre-revised rent by the petitioner, the third respondent shall refer the matter for revision of the rent to the Committee constituted in this regard, where the Committee, after giving an opportunity of being heard to the petitioner as well as the third respondent temple, shall pass orders with regard to the proposed revision under Section 34A of the H.R.&.C.E Act. The needful, as indicated above, shall be undertaken by the third respondent temple and the Committee in this regard as early as possible preferably within a period of three months.

12. With these directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IX)

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Sub Assistant Registrar

Sgl/rap



To

1. The Commissioner,
Hindu Religious and Charitable Endowments Department,
Uttamar Gandhi Salai,
Nungambakkam, Chennai - 34.

2. The Joint Commissioner,
Office of the Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Uttamar Gandhi Salai,
Nungambakkam, Chennai - 34.

3. The Managing Trustees,
Arulmigu Velleeswarar Temple,
No.30, South Mada Street,
Mylapore, Chennai - 600 004.

+lcc to Mr.S.Kumaran, Advocate SR. No.62931
+lcc to Government Pleader SR. No.63222

W.P. No. 16623 of 2021

JPII (CO)
PR (14/02/2022)