



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2021

CORAM

The Hon'ble Mr. Justice PARESH UPADHYAY
and
The Hon'ble Mr. Justice SATHI KUMAR SUKUMARA KURUP

W.A.No.2806 of 2021
and
C.M.P. No.18479 of 2021

1.P.Jayanthi
2.P.Malini
3.Dr.Sasikala Rao
4.Dr.Latha Bhatt

..Appellants

Vs

1. The Commissioner,
Hindu Religious and Charitable
Endowment (HR & CE) Dept.,
No.119, Uthamar Gandhi Road,
Nungambakkam, Chennai - 600 034.
2. The Joint Commissioner Chennai
Hindu Religious and Charitable
Endowment (HR & CE) Dept.,
No.128, Yadaval Street,
Padi, Chennai - 50.
3. The Assistant Commissioner,
Hindu Religious and Charitable
Endowment (HR & CE) Dept.,
No.119, Uthamar Gandhi Road,
Nungambakkam, Chennai - 600 034.
4. The Executive Officer,
Arulmigu Gangadeeswarar &
Connected Temples,
Gangadeeswarar Temple,
Purasawalkam, Chennai - 600 084.

..Respondents

Appeal preferred under Clause 15 of Letters Patent against the order dated 29.09.2021 in W.P.No.19258 of 2021.

Prayer in W.P.No.19258 of 2021: This Hon'ble Court may be pleased to issue a writ of certiorari or any other writ, order of direction in the said nature calling for the records of the 2nd



respondent is connection with order dated 09.03.2017 in proceedings No.Se.Mu.Na.Ka.No.2004/2017/A3 on the file of the said Respondent and quash the same so far as it relate to the late father of the petitioners 1 to 4 Mr.P.Lakshmi Narayana Bhat No.6 Gangadeeswarar Koil street Purasawalkam Chennai-600 084 in the table enclosed to the impugned order and pass such further or Orders as this Hon'ble Court.

For Appellants : Mr.R.Srinivas
for M/s.V.Mythili

For Respondents : Mr.NRR.Arun Natarajan,
Spl. Govt. Pleader

JUDGMENT
(Delivered by PARESH UPADHYAY, J.)

Challenge in this appeal is made to the order dated 29 September, 2021 in W.P.No.19258 of 2021. This appeal is by the original writ petitioners.

2. By the impugned order, while dismissing the writ petition challenging the issuance of notice dated 09 March, 2017 pertaining to fair rent, learned Single Judge has held in para 57 as under:-

"57.Considering the findings and over all consideration of the facts and circumstances of the case on hand, the petitioners are in illegal occupation and have not paid the fair rent and further by running a profitable business, causing damages and financial loss to the minor idol and to the temple and therefore, the petitioners have no right to continue in the subject property of the temple and they are liable to be evicted without any further delay."

3. Learned advocate for the appellants has addressed the Court at length. Serious grievance is made that the notice for fair rent was in breach of principles of natural justice and therefore it ought to have been interfered with. It is noted that learned advocate for the appellants has taken this Court extensively through various provisions of law including Sections 34 and 78(5) of The Tamil Nadu Hindu Religious and Charitable Endowments Act, 1965 and Transfer of Property Act, coupled with the decision of the Division Bench of this Court in Arulmigu Angala Parameswari and Kasivishwanathaswami Temple Adimanaiveal House Owners Association Vs. The State of Tamil Nadu represented



by its Secretary to Government, Hindu Religious and Charitable Endowments Department and Others (2009 (6) CTC 512) to contend that the order of learned Single Judge calls for interference. On facts, learned advocate for the appellants has submitted that the respondent authorities are confused as to whether the appellants are encroachers or tenants. It is submitted that on one hand, the fair rent is being asked for and at the same time, the amount is asked treating the appellants as encroachers. It is submitted that going by any parameter, the stand taken by the respondent authorities is illegal, in substance and in procedure. It is submitted that the rejection of the writ petition by learned Single Judge is erroneous on more than one count.

4. Learned advocate for the contesting respondent, who appears on caveat has supported the impugned order of learned Single Judge. Attention of the Court is also invited to the counter filed in the writ petition. It is submitted that this appeal be dismissed.

5. Having heard learned advocates for the respective parties and having considered the material on record, this Court finds as under:-

5.1. Challenge in the writ petition is to the notice of fair rent dated 09 March, 2017.

5.2. During the course of hearing, learned advocate for the appellants has also referred to other document dated 20 March 2017, which may have consequence of eviction of the appellants from the property in question. Viewing from this angle, reasons recorded by learned Single Judge are examined by us.

5.3. Learned Single Judge passed the order after taking note of the counter filed by the respondents, in which it was inter alia indicated that even the father of the present appellants had not paid rent, even on the basis of earlier fair rent assessment which was conducted before more than a decade. To this however, learned advocate for the appellants has submitted that receipts were produced before learned Single Judge. Be that as it may, the fact remains that on the land in question, which is of the Temple, Hotel is working. According to the respondents, lease was not in force, even when the father of the appellants was alive and the present appellants identify/introduce them, either as tenant(s) or as encroacher(s) to suit their convenience. Learned single Judge has examined the matter from all these angles and has arrived at the conclusion that no protection needs to be granted to the writ petitioners. We find that taking recourse to Sections 34 and / or 78(5) of the Act, would not change the complexion of the matter qua the findings



recorded by learned Single Judge. Further, the decision of the Division Bench of this Court, in the case of Arulmigu Angala Parameswari (supra) as relied by the learned advocate for the appellants, in our view, would not take the case of the appellants any further, in the facts of this case. In totality, we do not find any error much less any error apparent on the face of record, in the impugned order of learned Single Judge, which may call for any interference in an intra-court appeal. This appeal therefore, needs to be dismissed.

6. For the reasons recorded above, this writ appeal is dismissed. No costs. Consequently, connected C.M.P.No. 18479 of 2021 is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

ssm/9

To

1. The Commissioner,
Hindu Religious and Charitable
Endowment (HR & CE) Dept.,
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 4. The Executive Officer,
Arulmigu Gangadeeswarar &
Connected Temples,
Gangadeeswarar Temple,
Purasawalkam, Chennai - 600 084.
- +1cc to M/s.V.Mythili Srinivas, Advocate, S.R.No.61877

W.A.No.2806 of 2021

JPL[co]
NSK 09/12/2021