



IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 15.11.2021

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.23769 of 2021

D.Radhammal

..Petitioner

-Vs-

1 The Joint Commissioner  
O/o The Department of Hindu Religious and  
Charitable Endowments, Arcot Road  
Kagithapattarai, Vellore - 632 012.

2 The Executive Officer  
Arulmighu Venugopal Swamy and Varadaraja  
Perumal Koil, Virupatchipuram, Office at  
No.12, Katpadi Road, Thottapalayam  
Vellore-632 004.

..Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the first respondent to consider the petitioner's representation dated 29.07.2021 and pass appropriate orders on the same by re-fixing the fair rent for the ground alone in respect of the lands in possession of petitioner by calculating the fair rent (ground rent) as 0.30 percentage instead of 0.60 percentage after giving reasonable opportunity to the petitioner within the time frame fixed by this Hon'ble Court.

For Petitioner :Ms.R.Gobika

For Respondents :Mr.NRR Arun Natarajan

Special Government Pleader - for R1

O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the first respondent to consider the petitioner's representation dated 29.07.2021 and pass appropriate orders on the same by re-fixing the fair rent for the ground alone in respect of the lands in possession of petitioner by calculating the fair rent (ground rent) as 0.30 percentage instead of 0.60 percentage after giving reasonable opportunity to the petitioner within the time frame.



2. That the petitioner's husband was a tenant in the property belongs to the second respondent temple and in respect of the said property, it is the case of the petitioner that the petitioner has constructed the building in the land belongs to the temple. Therefore, if at all any rent has to be collected, it should be collected only for the ground and not for the structure. When that being so, according to the petitioner, the committee constituted in this regard by the respondent Department, by an order dated 19.12.2019, enhanced the rent and the said enhancement has not been communicated to the petitioner's husband, who subsequently died. The petitioner, wife of the original lessee, who has stepped into the shoes of the original lessee has also not been served the said communication. However, all of a sudden on 13.07.2021, the communication or notice has been received from the second respondent temple demanding a sum of Rs.4,45,760/- and Rs.1,37,590/- respectively for Shop No.3 and Shop No.10 respectively within 15 days, failing which action would be initiated against the petitioner under Sections 78 and 79(b) of the Hindu Religious and Charitable Endowments Act (hereinafter referred to as 'the Act'). Felt aggrieved over the said communication, the petitioner has moved this writ petition.

3. Ms.R.Gobika, learned counsel for the petitioner would submit that, first of all the revision of rent ought not to have been made in respect of the whole building. Secondly, if at all any enhancement has been made by the committee, the same should have been communicated to the petitioner so that the petitioner could have been in a position to challenge the same in the manner known to law.

4. However, all of a sudden, now the impugned demand has been made against the petitioner by the second respondent through their communication dated 13.07.2021. Therefore, the entire proceedings which culminated in the impugned demand, according to the petitioner's counsel, is vitiated and hence she seeks the indulgence of this Court against the impugned order.

5. However Mr.NRR.Arun Natarajan, learned Special Government Pleader appearing for the respondents, on instructions, would submit that, the committee constituted in this regard to review the rent already fixed in respect of the shops not only of the petitioner but also others, have decided to enhance the rent. Accordingly, the rent has been enhanced to all the lessees including the petitioner and such a decision has been taken by the committee as early as on 09.12.2019. However, the learned Government Pleader, on instructions, would fairly





11. Though the learned counsel for the petitioner pointed out that there is a limitation of 30 days to prefer an appeal and in that case whether the 09.12.2019 order can be assailed now before the appellate authority as the 30 days limitation would have been over long back, this Court feels that since admittedly the said order dated 09.12.2019 has not been served on the petitioner and after 13.07.2021 impugned demand, when the petitioner filed this writ petition, this position has been made clear as recorded above, it may be possible for the petitioner to challenge the impugned enhancement dated 09.12.2019 especially on the limitation point and insofar as the merits of the case is concerned between the petitioner and the second respondent temple, it can be agitated before the appellate authority and in this regard, the case and counter case projected by both sides now are not traversed before this Court and it can be put forth before the appellate authority.

12. In that view of the matter, this writ petition can be disposed of by this Court with the following order.

- That the petitioner is given an opportunity to prefer appeal against the order enhancing the revised rent by the Committee dated 09.12.2019 before the appellate authority under Section 34-A(3) of the H.R.&C.E., Act within 30 days from the date of receipt of a copy of this order, where it is open to the petitioner to raise whatever grounds she has urged in this writ petition and any further grounds with the supporting documents to successfully challenge the said enhancement as well as the impugned demand dated 13.07.2021.
- If such appeal is filed as indicated above, the appellate authority is hereby directed to consider the same and decide the same at the earliest, on merits and in accordance with law, of course by giving an opportunity of being heard to the petitioner as well as the second respondent temple.
- It is made clear that, insofar as the arrears of rent is concerned, it is for the appellate authority to decide that the said issue as to whether it can be stayed for the time being during the pendency of the appeal or not, and in this regard a specific request or prayer can also be made by the petitioner while filing the appeal.



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13. With the above observations and directions, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

KST

To

1. The Joint Commissioner  
O/o The Department of Hindu Religious and  
Charitable Endowments, Arcot Road  
Kagithapattarai, Vellore - 632 012.
2. The Executive Officer  
Arulmighu Venugopal Swamy and Varadaraja  
Perumal Koil, Virupatchipuram, Office at  
No.12, Katpadi Road, Thottapalayam  
Vellore-632 004

+1 CC to Mr.S. Sathiachandran, Advocate sr 58413.

+1 CC to The Government Pleader sr 58868.

W.P.No.23769 of 2021

BS (CO)

SP(29/11/2021)