



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 23.02.2021

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THE HON'BLE MR.JUSTICE V.PARTHIBAN

W.P. (MD) No.3432 of 2021

and

W.M.P. (MD) No.2782 of 2021

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M/s.Kalyan Jewellers India Ltd.,
Erataimal Street,
Trichy - 1,
Rep. by its Authorised Signatory,
Mr.Kalai Selvan, Chief Manager.

... Petitioner

-vs-

1.The Commissioner,
Hindu Religious & Charitable Endowment Department,
Uthamar Gandhi Salai,
Nungambakkam,
Chennai - 600 034.

2.The Assistant Commissioner/Executive Officer,
Hindu Religious and Charitable Endowment Department,
Arulmigu Thayumana Swamy Temple,
Malaikottai, Thiruchirappalli - 2.

3.The Superintendent,
Arulmighu Thayuman Swamy Temple,
Malaikottai, Thiruchirappalli - 2.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari calling for records of the second respondent herein dated 21.08.2020 in Na.Ka.No.918/2019/A5 and quash the same.

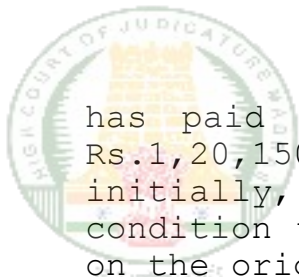
For Petitioner : Mr.Krishna Prasad
for M/s.Sarvabhman Associates

For Respondent 1 : Mr.K.P.Narayanakumar
Special Government Pleader

For Respondents : Mr.M.Saravanan
2 and 3

ORDER

The case of the petitioner is that the property measuring an extent of 1279.80 sq. ft. in S.F.No.2621 in No.1A, Rettaimal Street was leased to one Balachandran by the second respondent for running his business. The said Balachandran could not run his business due to his health problem and therefore, the premise was transferred and leased out to the petitioner by the second respondent vide sanction order dated 19.04.2010. As per the sanction order, the petitioner



has paid a sum of Rs.2,00,000/- towards donation and a sum of Rs.1,20,150/- towards advance. According to the petitioner, initially, the rent was fixed at Rs.12,015/- per month on the condition that the same will be revised on every three years at 15% on the original rent.

2.While so, the second respondent issued an order dated 21.08.2020 wherein they informed the petitioner that the rent has been revised and enhanced and the revised rent was fixed at Rs.3,18,730/- with effect from 01.07.2019. The rents were also revised from the previous years also from 2016 onwards. Since the petitioner was a defaulter of not paying the enhanced/revised rents, he was directed to pay Rs.1,30,68,682/- after deducting the monthly rents already paid by the petitioner. According to the petitioner, the order has been passed without giving an opportunity and therefore, a representation was sent on 01.10.2020 to the second respondent to reduce the rent and to give opportunity to explain his side of difficulty. However, the representation was also rejected by the second respondent on 16.11.2020. Further, a communication was also issued on 30.01.2021 directing the petitioner to remit the enhanced rent within 15 days. Challenging the action of the second respondent, the petitioner is before this Court.

3.The learned Counsel who appeared for the petitioner has reiterated the above facts and attempted to impress upon this Court as to the illegality in the action of the second respondent in enhancing and revising the rent exorbitantly. When this Court perused the documents filed in support of the Writ Petition, it is found that the petitioner was clearly informed by the first respondent office that any reduction in payment of rent towards the premises under their occupation appeal remedy is available before the first respondent under Section 34A(3) of the Hindu Religious and Charitable Endowments Act. Unfortunately, instead of availing the effective remedy, the petitioner has rushed to this Court challenging the order of the second respondent questioning the enhancement/revision of rent. When an effective and appropriate appeal remedy is made available under the relevant Act, the proper recourse for the petitioner to avail the remedy before the appellate authority under the Act and he alone is competent to appreciate the case of the petitioner on the basis of the relevant records. Instead of choosing the effective remedy which is made available in the Act, the petitioner has needlessly approached this Court at this stage.

4.Therefore, this Court is of the view that the proper course that is open to the petitioner to approach the appellate authority as indicated in the proceedings dated 05.11.2020 which communication is part of the typed set of paper filed by the petitioner himself. In view of the same, the writ petition is dismissed for non-exhaustion of the appeal remedy by the petitioner.



5. Therefore, the Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

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// True Copy //

/ /2021

Sub Assistant Registrar(CS)

SRM

To

1. The Commissioner,
Hindu Religious & Charitable Endowment Department,
Uthamar Gandhi Salai,
Nungambakkam,
Chennai - 600 034.
2. The Assistant Commissioner/Executive Officer,
Hindu Religious and Charitable Endowment Department,
Arulmigu Thayumana Swamy Temple,
Malaikottai, Thiruchirappalli - 2.
3. The Superintendent,
Arulmighu Thayuman Swamy Temple,
Malaikottai, Thiruchirappalli - 2.

+1 CC to M/s.SARVABHAUMAN ASSOCIATES, Advocate (SR-6808[F] dated 24/02/2021)

+1 CC to M/s.M.SARAVANAN, Advocate (SR-6994[F] dated 24/02/2021)

+1 CC to M/s.SPL GP (SR-7225[F] dated 25/02/2021)

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