



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 05.03.2021

CORAM

THE HONOURABLE MR.JUSTICE **V. PARTHIBAN**

W.P. (MD)No.4539 of 2021

and

W.M.P. (MD)Nos.3650 and 3651 of 2021

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A.Mohamed Ali Jinnah

: Petitioner

Vs.

1.The Commissioner,

Hindu Religious and Charitable Endowments Department,
Chennai -34.

2.The Joint Commissioner,

Hindu Religious and Charitable Endowments Department,
Madurai.

3.The Assistant Commissioner,

Hindu Religious and Charitable Endowments Department,
18, Naachi Street, Madurai District.

4.C.N.S.Ashok Kumar,

Hereditary Administrative Trustee,
Arulmighu Sri Rarajajeshwari Thandumariamman Kovil,
No.35, Nethaji Road, Madurai-1.

: Respondents

PRAYER :- Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari, to call for the records relating to the second respondent fair rent fixation committee proceedings approval order in Mu.Mu.No.2227/2017/A4, dated 23.03.2017 and consequential order passed by the second respondent proceedings in Na.Ka.No.41/2020/E1, dated 19.12.2020 and quash the same and further to direct the respondents 2 to 4 to fix the fair rent of the petitioner Shop No.255B, carrying a business in the name and style of "New Rita Footwear" situated at Nethaji Road, Madurai, after giving proper opportunity to the petitioner.

For Petitioner

:Mr.A.P.Muthupandian

For R1 to R3

:Mr.K.P.Narayakumar

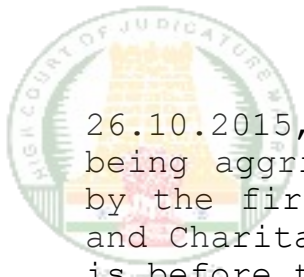
Special Government Pleader

For R4

:Mr.Guhaseela Rupan

ORDER

The petitioner claims himself as the lessee of a property situated at Nethaji Road, Madurai. According to him, some payments have been made at the time of grant of lease, which was originally executed in June-1997 and the lease was renewed once in three years and the last agreement was executed by the fourth respondent on



26.10.2015, which expired on 30.08.2018. The petitioner is presently being aggrieved by a show cause notice issued to him on 19.12.2020 by the first respondent under Section 78(2) of the Hindu Religious and Charitable Endowments Act. Challenging the same, the petitioner is before this Court.

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2.As could be seen from the impugned proceedings, the second respondent, who issued the show cause notice under Section 78 (2) of the Hindu Religious and Charitable Endowments Act, calling for an explanation from the petitioner, as to why he should not be treated as an encroacher and he was directed to appear on 28.12.2020 at 03.00 pm. When the Temple administration has issued a notice asking the petitioner to explain his relationship to the subject property under his occupation, instead of submitting his explanation and justifying his presence in the subject property, the petitioner has rushed to this Court by invoking the remedy under Article 226 of Constitution of India.

3.This Court has time and again discouraged any litigation challenging the show cause notice, as normal course for any litigant is to participate in the show cause notice proceedings and enquiry and any adverse order is passed, if no proper appellate remedy is available, then it is open to the litigant to invoke the writ jurisdiction of this Court. It is certainly not open to the litigant, like the petitioner herein, to directly approach this Court without giving any explanation to the show cause notice.

4.In matters like this, it is always better for the petitioner to approach the HR & CE authorities and convince them, as he is in the legitimate occupation of the property in question and the second respondent or any other competent authority is the proper person to entertain the explanation of the petitioner with proper prospective and not this Court, which can directly entertain the grievance of the petitioner at this stage.

5.For the aforesaid reasons, this Court finds that the Writ Petition challenging the show cause notice is without any merits and therefore, the same is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

cmr

<https://hcservices.ecourts.gov.in/hcservices/>



To

1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Chennai -34.

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+1 CC to MR.C.GUHASEELARUPAN, Advocate (SR-9099[F]dated
05/03/2021)

+1 CC to M/s.SPL GP (SR-9512[F] dated 08/03/2021)

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