



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.11.2021

CORAM

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

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W.P.(MD)Nos.19606 to 19615 of 2021

and

W.M.P(MD).Nos.16300 to 16305, 16307, 16308, 16309,
16310 of 2021

V.Marichamy Naidu	... Petitioner in WP(MD). 19606/ 2021
Dhanabackiam	... Petitioner in WP(MD). 19607/ 2021
Anuradha	... Petitioner in WP(MD). 19608/ 2021
Indira	... Petitioner in WP(MD). 19609/ 2021
Meenakshi Sundaram	... Petitioner in WP(MD). 19610/ 2021
Lingammal	... Petitioner in WP(MD). 19611/ 2021
Chamundeeswari	... Petitioner in WP(MD). 19612/ 2021
Muthupandi Panchavarnam	... Petitioner in WP(MD). 19613/ 2021
Meenakshi	... Petitioner in WP(MD). 19614/ 2021
Dhanusuraman	... Petitioner in WP(MD). 19615/ 2021

vs

The Executive Officer, Arulmighu Puttu Urchava Vagaiyara Kattalai, Arulmighu Sokkanathar Thirukovil, Puttuthoppu, Madurai-625 016.	...Respondent (in all Cases)
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Common Prayer :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus to call for the records of the impugned orders of the Respondent dated 26/07/2021, 20/09/2021 and 07/10/2021 and quash the same as illegal and consequently directing the



Respondent to re-fix the fair rent in accordance with law and pass such further or other orders as this Honble Court deems fit and proper in the circumstances of the above case

For Petitioner : Mr.M.Kannan (in all cases)
For Respondent : Mr.M.Saravanan (in all cases)

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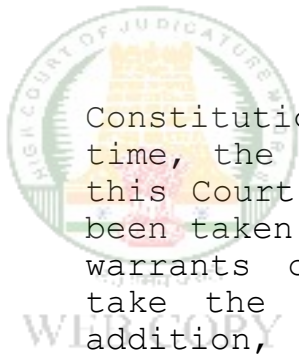
COMMON ORDER

In all these writ petitions, the respective petitioner assails an order of re-fixation of fair rent with effect from 01.07.2016. Consequential orders for initiation of proceedings under Sections 78 and 79 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (the Act of 1959) are also under challenge.

2. The respective petitioner assails the order of re-fixation of fair rent primarily on the ground that such fair rent has been re-fixed with retrospective effect. By relying upon an order passed in *N.Gurusamy Nadar and Others v. The Commissioner, Hindu Religious and Charitable Endowments Department, 2018 (3) MWN (Civil) 167*, it is contended that the Court categorically held that fixation of fair rent with retrospective effect is impermissible in law. Therefore, the respective petitioner contends that the impugned order of re-fixation of fair rent is unsustainable. Although an appellate remedy is provided for under Section 34A(3) of the Act of 1959, it is submitted that these writ petitions are maintainable in view of the failure of the respondent to take into account the above mentioned order. The respective petitioner also contends that great prejudice would be caused if these writ petitions are not entertained inasmuch as the proviso to Section 34A(5) mandates that the re-fixed rent should be paid and satisfactory proof thereof submitted before an appeal is entertained.

3. On the contrary, the respondent submits that the constitutional validity of Section 34A of the Act of 1959, including in particular, the proviso to Section 34A(5) was upheld by a Division Bench of this Court in the judgment in *Arulmigu Angala Parameswari and Kasivishwanathaswami Temple, Adimanaiveal House Owners Association v. The State of Tamil Nadu, 2009-3-L.W.728*. Therefore, it is submitted that the present writ petitions are not maintainable.

4. Upon considering the rival contentions, it should be noted that a statutory remedy is provided for. In addition, there are disputed questions of fact as to whether the delay in fixation of fair rent is attributable to the respective petitioner as contended by the respondent. In these circumstances, the respective petitioner is not entitled to discretionary relief under Article 226 of the



Constitution and should avail of the statutory remedy. At the same time, the contention of the respective petitioner that the order of this Court, which was reported in 2018 (3) MWN (Civil) 167, has not been taken into consideration by the respondent is a contention that warrants consideration. Therefore, the appellate authority shall take the same into account while disposing of the appeals. In addition, it is just and necessary that the appeals be disposed of expeditiously.

5. Accordingly, all these writ petitions are disposed of by permitting the respective petitioner to present an appeal before the Commissioner in terms of Section 34A(3) of the Act of 1959. The respective petitioner is permitted to present such appeals within four weeks from the date of receipt of a copy of this order. If such appeals are presented within the said time limit, the Commissioner is directed to receive such appeals and dispose of the same on merits within a period of two months from the date of receipt thereof without going into the question of limitation. There will be no order as to costs. Consequently, connected W.M.P(MD).Nos.16300 to 16305, 16307, 16308, 16309, 16310 of 2021 are closed.

Sd/-

Assistant Registrar (CS-II)

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/ /2021

Sub Assistant Registrar(CS)

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To

The Executive Officer,
Arulmighu Puttu Urchava Vagaiyara Kattalai,
Arulmighu Sokkanathar Thirukovil,
Puttuthoppu, Madurai-625 016.

Copy to:

The Commissioner,
Hindu Religious at Charitable Endowment department,
Nungambakkam, Chennai-600 034.

+10 CC to M/s.M.SARAVANAN, Advocate (SR-33603[F] dated 02/11/2021)

+1 CC to M/s.M.KANNAN, Advocate (SR-33615[F] dated 02/11/2021)

W.P. (MD)Nos.19606 to 19615 of 2021

01.11.2021

RD/NS(25.11.2021) 3P 14C