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IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 20.04.2022

Coram

The Hon'ble Mr. Justice **M.SUNDAR**

Contempt Petition No.177 of 2022

M.Srinivasan,
No.1, West Jones Road,
Saidapet, Chennai 600 015

... Petitioner

VS.

1.Renuka Devi,
Joint Commissioner II,
Hindu Religious and Charitable
Endowments Department,
No.119, Uthamar Gandhi Salai,
Chennai - 34.

2.A.Gajapaathy,
Chairman,
Board of Trustees,
Jayarama Chetty Street,
Sri Kadubadi Chinnamman Thirukoil,
Saidapet, Chennai - 15.

... Respondents

Petition filed under Section 11 of Contempt of Courts Act, 1971 to punish the respondents herein for wilful disobedience of the order of this Court dated 06.10.2021 passed in W.P.No.10286 of 2021.

For Petitioner .. Mr.T.M.Mano

For Respondents .. Mr.NRR. Arun Natarajan,
Spl. Govt. Pleader (H.R. & C.E.)
for R1
Ms.G.Sumitra for R2

ORDER

Captioned contempt petition filed by the petitioner is predicated on a

allegation that order dated 06.10.2021 made in W.P. No.10286 of 2021 and



W.M.P.No.10883 of 2021 has been violated inter-alia owing to issue of a notice dated 27.11.2021 by the second respondent in captioned contempt petition.

2. Mr.T.M.Mano, learned counsel representing the counsel on record for petitioner, Mr.NRR. Arun Natarajan, learned Special Government Pleader (Tamil Nadu Hindu Religious and Charitable Endowments Department) for first respondent and Ms.G.Sumitra, learned counsel for second respondent are before this Court.

3. At the outset, it is deemed appropriate to record the stated position of all the aforementioned counsel i.e., that aforementioned order dated 06.10.2021 made by me in W.P. No.10286 of 2021 and W.M.P.No.10883 of 2021 thereat has not been carried in appeal and has been given legal quietus. In other words, 'order dated 06.10.2021 made by me in W.P. No.10286 of 2021 and W.M.P.No.10883 of 2021 thereat' (hereinafter 'said order' for the sake of convenience and clarity) has attained finality is the common say of all counsel before me and said order reads as follows:

Mr.K.Sharath Chandran, learned counsel for sole writ petitioner, Mr.NRR.Arun Natarajan, learned State counsel for Respondents 1 and 2 and Mr.Abdul Majeed, learned counsel representing the counsel on record for third respondent are before this Court.



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(hereinafter 'impugned order' for the sake of convenience and clarity) has been assailed i.e., called in question.

3. Before I advert to the impugned order, it is necessary to mention that subject matter of captioned writ petition is lease of a small shop by a temple i.e., 'Arulmighu Kadumbadi Chinnamman Thirukkoil at No.53, Jayaram Chetty Street, West Saidapet, Chennai – 15' (hereinafter 'said temple' for the sake of convenience and clarity) to the writ petitioner. To be noted, said temple is governed by 'the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Act 22 of 1959)' (hereinafter 'TN HR & CE Act' for the sake of convenience and clarity).

4. Adverting to the impugned order, learned counsel for writ petitioner submits that the demised property is a small shop constituted by land and superstructure. This shall hereinafter be referred to as 'demised shop' for the sake of convenience and clarity. Adverting to the impugned order, learned counsel submits that the impugned order demands rent at the rate of Rs.3000/- per month on and from 01.07.2016 i.e., fasli 1426 and this is impermissible as there is a history, according to learned counsel for writ petitioner, originally the rent was Rs.650/- per mensem, but after some discussions, it was enhanced to Rs.3000/- per month and he is already depositing the same on and from 18.03.2021 in Bank account of said temple. This is subject to some dispute or disagreement by learned counsel for third respondent.

Therefore, I deem it appropriate to not to embark upon this factual dispute, more so in a writ petition. Another reason



for refraining from embarking upon this factual dispute is, captioned writ petition can be disposed of by making a simple order without getting into those disputes or disagreements.

*5. There is no dispute or disagreement that the writ petitioner is a lessee under said temple qua demised shop. There is also no dispute or disagreement that demised shop being property belonging to said temple, will stand governed by TN HR & CE Act. Therefore, the mechanism / methodology statutorily prescribed in TN HR & CE Act will have to be applied for computing and deciding the lease rent qua demised shop. This methodology and mechanism is adumbrated in Section 34-A of TN HR & CE Act which kicked in on and from 10.05.2003. Learned counsel for writ petitioner adverting to **M.Gurusamy Nadar's case [M.Gurusamy Nadar Vs. Commissioner, Hindu Religious and Charitable Endowment Department]** being an order made by this Court and reported in **2018 (3) MWN (Civil) 167** and more particularly paragraph 17 thereof submits that lease rent cannot be fixed prior to 10.05.2003.*

6. Be that as it may, learned counsel for writ petitioner also submits that writ petitioner has been depositing rent qua demised shop at the rate of Rs.3000/- per month on and from 18.03.2021 and this Court is informed that deposit is in the bank account of said temple. Learned counsel for third respondent submits that this requires to be verified as he does not have instructions readily on hand on the same. However, it is not necessary to go into this aspect as learned counsel for writ petitioner, on instructions, very fairly submits that writ



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*petitioner will pay rent for demised shop at the rate of Rs.3000/- per month (pay to said temple) on and from 18.03.2021 after adjustments qua payments said to have been already deposited. Obviously, lease rent has to be fixed for demised shop in accordance with Section 34-A of TN HR & CE Act. The respondents and all others concerned will do well to commence and conclude the exercise of fixation of lease rent qua demised shop in accordance with Section 34-A of TN HR & CE Act keeping in mind **M.Gurusamy Nadar's** case, as expeditiously as the business of the respondents would permit and in any event within three months from today i.e., on or before 06.01.2022.*

7. Captioned writ petition is disposed of by making the aforementioned simple order. In the light of the fair stand taken by learned counsel for writ petitioner (on instructions) that the demised shop consists of land and superstructure (notwithstanding a new superstructure being put up by the writ petitioner with consent of said temple) any documentation that is required for formalizing this position i.e., land and superstructure qua demised shop belonging to said temple shall also be completed. Consequently, connected WMPs are also disposed of as closed. There shall be no order as to costs.

4. A scanned reproduction of aforementioned notice dated 27.11.2021 issued by the second respondent which is the trigger (as alluded to supra in the opening paragraph of this order) for the captioned contempt petition is



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Ph:24851094

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Register post/AD

அருள்மிகு கடும்பாடி சின்னம்மன் திருக்கோயில்
எண்:53. ஜெயராம் செட்டி தெரு, சைதாப்பேட்டை மேற்கு,
சென்னை-600 015.

அதிவா-1

நாள்: 23.10.2021

அனுப்பநர்:

A.கெஜபதி B.Sc,
பரம்பரை அறங்காவலர் குழுத்தலைவர்
அருள்மிகு கடும்பாடி சின்னம்மன்
திருக்கோயில்,
சைதாபேட்டை, சென்னை-600 015.

பொருள்:1.7.2016 முதல் நியாய வாடகை நிர்ணயம் - பார்க்கி விவரம்.

பார்வை: இணை ஆணையர்-2 ஆவர்களிடம் செ.மு.ந.க. எண்:2163/
2021/அ3 நாள்: 23.10.2021.

பெறுநர்:

திரு/அருள்மிகு

M. ஜெயராம்,
(தொடர்பு சபை)
சின். 1 (வெண்) ஜெயராம் வீடு,
வெண், வெண்,
சென்னை - 600015

நியாய வாடகை நிர்ணயம்/வாடகை நிலுவை குறித்த அறிவிப்பு:

அருள்மிகு கடும்பாடி சின்னம்மன் திருக்கோயிலுக்கு சொந்தமான
கட்டிடம்/குடியிருப்பு/வணிகம் மற்றும் அடிமனை/குடியிருப்பு/வணிகம், சைதாபேட்டை,
சென்னை-600015-வெண் ஜெயராம் தெருவில் எண் 1 உள்ள
இடத்தில் (பிளாக் எண் 6 அதன் சர்வே எண் 26 ஆகும்) மாத வாடகைக்கு
இருந்து வருகிறீர்கள்.

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மேற்சொன்ன திருக்கோயிலுக்கு சொந்தமான இ-த்திற்கு 30.06.2016 (பாக்கி) மற்றும் 01.07.2016 முதல் 30.11.2021 வரையிலான நியாய வாடகை நிர்ணயம் செய்வதன் அடிப்படையில் தாங்கள் கட்டிடம்/குடியிருப்பு/வணிகம் மற்றும் அடிமனை குடியிருப்பு/வணிகம் முதல வடகையாக 01.07.2016 முதல் ரூ. 855/- என நியாய வாடகை நிர்ணயம் செய்யப்பட்டுள்ளது.

பசலி 1431, அதாவது 30.11.2021 அன்று உள்வாங்க வாடகை நிர்ணயம் தொகையாக ரூபாய் 4,89,235/- (ரூபாய் நான்கு லட்சம் எட்டு ஆயிரம் மூன்றுபது ரூபாய்) செலுத்த வேண்டியுள்ளது. இத்தொகையினை முழுவதுமாக பதினைந்து நாட்களுக்குள் செலுத்தி, புதிய ஒப்பந்தம் செய்து கொள்ள அறிவுறுத்தப்படுகிறது.

இந்த அறிவிப்பினை பெற்றவின் திருக்கோயிலுக்கு வந்து தொகையை செலுத்தி இரசீது பெற்றுக் கொள்ளும்படி கேட்டுக் கொள்ளப்படுகிறது.

இடம்: சைதை மேற்கு
சென்னை-600 015.


(A. மேனாபதி)
சென்னை அரங்கையம் குழந்தையன்
அருகே அடுப்படி வீதம்வாசி திருக்கோயில்
வசைத மேற்கு, சென்னை - 600 015.

நாள்: : 23.11.2021

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5. From the submissions made today, it came to light that there was

some difficulty with regard to the cut-off date *qua* retrospectivity for the

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fixation of lease rent under Section 34-A of 'the Tamil Nadu Hindu



Religious and Charitable Endowments Act, 1959 (Act 22 of 1959)' (hereinafter 'TN HR & CE Act' for the sake of convenience and clarity).

Suffice to say that M.Gurusamy Nadar principle i.e., ratio in **M.Gurusamy Nadar Vs. Commissioner, HR & CE Department (2018 (3) MWN (Civil) 167)** is that there cannot be fixation of lease rent with retrospective effect prior to 10.05.2003 being the date on which Section 34-A of TN HR & CE Act kicked in and it is not necessary to delve into this aspect of the matter or dilate further on this owing to the trajectory the matter has taken today.

6. This brings me back to the trajectory the captioned matter has taken today.

7. Learned State counsel and learned private counsel for second respondent (hereinafter referred to as 'temple counsel' for the sake of convenience and clarity) submit on instructions that aforementioned 27.11.2021 notice referred to supra would not be pursued, it stands withdrawn (without prejudice to the rights and contentions of the respondent to fix lease rent in accordance with Section 34A of TN HR & CE Act) and instead a fresh notice with working sheet and other necessary particulars as per Angala Parameswari principle being ratio laid down by a Honourable Division Bench of this Court in **Arulmigu Angala Parameswari and Kasivishwanathaswami Temple Adimanaiveal House**



Government reported in 2009 (3) Law Weekly 728: 2009 (6) CTC 512

would be issued for fixation of lease rent with effect from Fasli 1426. To be noted, Fasli 1426 translates to 01.07.2016 to 30.06.2017 in the Gregorian/English calendar (for conversion No.590 is added to the Fasli).

8. Though this is a contempt petition, I remind myself of *parentis locus qua* temple (idol being minor) besides *custodia legis qua* temple properties vide **A.A. Gopalakrishnan vs Cochin Devaswom Board & Ors** case reported in (2007) 7 SCC 482 and make an observation that the respondents will do well to issue notice afresh to the writ petitioner/petitioner in captioned contempt petition as expeditiously as their business would permit and in any event within one month from today i.e., on or before 20.05.2022 from thereon and thereafter, Section 34-A proceedings will take its due course.

9. Though obvious, for the purpose of specificity, it is made clear that all the rights and contentions of the writ petitioner as well as 'Arulmighu Kadumbadi Chinnammam Thirukkoil at No.53, Jayaram Chetty Street, West Saidapet, Chennai - 15' (hereinafter 'said temple' for the sake of convenience and clarity) qua fixation of lease rent under Section 34-A of TN HRCE Act are preserved. Likewise, as the writ petitioner undisputedly is a land lessee (superstructure having been put up by the writ petitioner) all other modalities available for formalising the jural relationship between said



temple and writ petitioner can also proceed without this order impeding this process. To be noted, this has already been observed in paragraph 7 of my order dated 06.10.2021 in W.P. No.10286 of 2021 and W.M.P.No.10883 of 2021 thereat (out of which this contempt arises).

10. Though Rule (Rule of contempt) has not been issued, it is made clear that both respondents stand purged of contempt in the captioned matter and the captioned contempt petition is disposed of as closed.

SD/-

ASSISTANT REGISTRAR(COMM.CASES)

mmi

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

from 25th day of September 2008 the Registry is issuing Certified copies of the Orders/Judgments/Decrees in this format.

GS/06/06/2022

To

The Joint Commissioner II,
Hindu Religious and Charitable
Endowments Department,
No.119, Uthamar Gandhi Salai,
Chennai – 600 034.