



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.11581 of 2022

and

W.M.P.No.11061 of 2022

T.Subramaniam

.. Petitioner

Vs.

1. The Commissioner,
Hindu Religious Endowment Department,
Nungambakkam, Chennai 600 034.

2. The Joint Commissioner,
Hindu Religious Endowment Department,
Nungambakkam, Chennai 600 034.

3. The Executive Officer,
Arulmigu Vengreswarar, Alagarperumal
and Nagathamam Temple, Vadapalani,
Chennai 600 026.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned undated demand notice issued by the 3rd respondent vide reference for the property bearing No.141, Arcot Road, Vadapalani, Chennai 600 026 and quash the same and consequently, forbear the 3rd respondent from demanding the enhanced rent retrospectively from 01.07.2016 in respect of the above said property and further permit the petitioner to pay the arrears of rents to the 3rd respondent temple.

For Petitioner : Mr.R.Abdul Mubeen
for Mr.M.Mohamed Anees

For Respondents : Mr.K.Karthikeyan
(Government Advocate)

O R D E R

This Writ Petition is filed by the petitioner challenging the impugned undated demand notice issued by the 3rd respondent and consequently, forbear the 3rd respondent from demanding the



enhanced rent retrospectively from 01.07.2016 in respect of the above said property and further permit the petitioner to pay the arrears of rents to the 3rd respondent temple.

2.By consent of the learned counsel appearing for the petitioner as well as the learned Government Advocate who take notice for the respondents, the matter is taken up for final disposal at the admission stage itself.

3.Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the respondents and perused the entire materials available on record.

4.According to the petitioner, the Shop bearing No.141, Arcot Road, Vadapalani, Chennai 600 026, was leased to him by the 3rd respondent temple for commercial purpose. The petitioner spent huge amount for renovating the said shop. The rent is enhanced once in three years by 30%. While so, by the impugned order, the 3rd respondent has demanded a sum of Rs.7,74,745/-, being the fair rent payable by the petitioner from the year 2016. The said fixation is arbitrary and in violation of the principles of natural justice. No opportunity was given to the petitioner to submit his objection. Hence, the petitioner has come out with the present Writ Petition.

5.Mr.K.Karthikeyan, the learned Government Advocate appearing for the respondents on instructions, submitted that the petitioner is in arrears of Rs.7,74,745/- upto June 2021. The petitioner has not given any objection for the said calculation. The petitioner was issued notice and fair rent was fixed. The remedy available to the petitioner is to file an appeal before the 1st respondent. Hence, the present Writ Petition is not maintainable and prayed for dismissal of the Writ Petition.

6.From the impugned order, it is seen that the 3rd respondent has not given any opportunity to the petitioner to file his objection for fixation of fair rent. As per the circular of HR & CE Department in Na.Ka.No.4551/2022/M2 dated 10.03.2022, the lessee (tenants) must be given an opportunity to submit their objection if any, for fixation of fair rent. The authority must consider the objection and pass orders either confirming, modifying or reducing the fair rent fixed. In view of the said circular, the impugned order of the 3rd respondent is treated as show cause notice and petitioner is directed to submit his objections within a period of two weeks from the date of receipt of a copy of this order. If any such objection is received, the 3rd respondent is directed to consider the same and pass orders on merits, fixing the fair rent and give an



opportunity to the petitioner to pay the said fair rent so fixed.

With the above directions, the Writ Petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

gsa

To

1. The Commissioner,
Hindu Religious Endowment Department,
Nungambakkam, Chennai 600 034.
2. The Joint Commissioner,
Hindu Religious Endowment Department,
Nungambakkam, Chennai 600 034.
3. The Executive Officer,
Arulmigu Vengreswarar, Alagarperumal
and Nagathaman Temple, Vadapalani,
Chennai 600 026.

+1cc to the Special Government Pleader (HR&CE), S.R.No.30555

W.P.No.11581 of 2022

SPD(CO)
SU(13/05/2022)