



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.05.2022

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P. No.13037 of 2022
and W.M.P.No.12450 of 2022

S.Srinivas Rao

... Petitioner

Vs.

1.The Commissioner,
Hindu Religious & Charitable Endowments Department,
Chennai.

2.The Joint Commissioner,
Hindu Religious & Charitable Endowments Department,
Coimbatore District.

3.The Asst. Commissioner,
Hindu Religious & Charitable Endowments Department,
Coimbatore District.

4.The Executive Officer,
Arulmigu Anjaneya Swamy Thiru Kovil,
Ootacumund, Nilgiris District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the entire records relating to the impugned order in miscellaneous petition No.48/2022/AA1 dated 31.03.2022 issued by the 2nd respondent and quash the same.

For Petitioner : Mr.T.Karunakaran

For Respondents : Mr.N.R.R.Arun Natarajan
Special Government Pleader (HR&CE)

O R D E R

The order impugned dated 31.03.2022 passed by the 2nd respondent/Joint Commissioner of Hindu Religious and Charitable Endowments Department under Section 79-C of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (in short, 'the Act') is under challenge in the present Writ Petition.



2. It is not in dispute that the petitioner was in occupation of the temple commercial premises for several years and recently vacated the premises and handed over possession to the temple authorities pursuant to the orders passed by this Court in W.P.No.2433 of 2022, dated 21.02.2022. The 2nd respondent has issued orders for recovery of differential arrears of rent in accordance with the provisions of the Act and Rules. The petitioner has raised several grounds questioning the order impugned passed by the 2nd respondent.

3. The learned Special Government Pleader appearing for the respondents has raised objections to the Writ Petition.

4. The issue involved regarding fixation of rent is to be adjudicated with reference to the documents and evidences available on record. Such a roving enquiry cannot be conducted by the High Court under Article 226 of the Constitution of India, as it requires scrutinization of documents regarding the fair rent fixed, etc.

5. An appeal is contemplated under the provisions of the Act. Admittedly, the petitioner has not exhausted the statutory appellate remedy in respect of the order impugned dated 31.03.2022. In view of the statutory appellate remedy available, the petitioner is at liberty to prefer an appeal challenging the order impugned dated 31.03.2022 under the provisions of the Act for the purpose of redressal of the grievance.

6. An aggrieved person, at all circumstances, is expected to exhaust the statutory appellate remedy contemplated under the statutes. The importance of exhausting the appellate remedy, at no circumstances, be under-minded by the High Courts.

7. The power of judicial review under Article 226 of the Constitution of India is to ensure the processes through which decision is taken by the Competent Authority inconsonance with the provisions of the Act and Rules, but not the decision itself. The findings of the Original Authority and the Appellate Authority would be of greater assistance for the High Court to exercise the power of judicial review under Article 226 of the Constitution of India in an effective manner. Thus, an aggrieved person, at all circumstances, is expected to exhaust the appellate remedy and entertaining the writ petition is only on certain exceptional circumstances, where the aggrieved person is able to establish a gross injustice shocking to the conscience of the Court, but not otherwise.

8. In the present case, other writ petitions were filed earlier and pursuant to the orders of this Court, the petitioner had vacated the temple premises and handed over possession. The



2nd respondent/Joint Commissioner, Hindu Religious and Charitable Endowments Department passed the impugned order dated 31.03.2022 claiming certain differential rental amount. Therefore, as stated supra, the petitioner is at liberty to approach the appellate authority for redressal of his grievances in the manner known to law. In the event of filing an appeal by the petitioner, the same shall be entertained and issues shall be decided on merits and in accordance with law.

9. With the above observations and directions, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Vacation Officer

//True Copy//

Sub Assistant Registrar

sp/bbr

To

- 1.The Commissioner,
Hindu Religious & Charitable Endowments Department,
Chennai.
- 2.The Joint Commissioner,
Hindu Religious & Charitable Endowments Department,
Coimbatore District.
- 3.The Asst. Commissioner,
Hindu Religious & Charitable Endowments Department,
Coimbatore District.
- 4.The Executive Officer,
Arulmigu Anjaneya Swamy Thiru Kovil,
Ootacumund, Nilgiris District.

+2cc to Mr.T.Karunakaran, Advocate, S.R.No.31657

+1cc to the Special Government Pleader(HR & CE), S.R.No.31690

W.P. No.13037 of 2022
and
W.M.P.No.12450 of 2022

SS(CO)
SB(26/05/2022)