



WEB COPY



W.P.No.21407 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2022

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THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

W.P.No.21407 of 2022

and

W.M.P.Nos.20409, 20410 & 20412 of 2022

Radhabai

... Petitioner

Vs.

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

2.The Joint Commissioner,
Chennai Division 2,
Hindu Religious and Charitable Endowment Department,
Ramakrishna Mutt Road,
Mylapore, Chennai.

3.The Assistant Commissioner,
Chennai Division,
Hindu Religious and Charitable Endowment Department,
Yadava Street,
Padi, Chennai - 50.

4.The Executive Officer,
Arulmighu Ramanatheeswar Thirukoil,
Porur, Chennai - 600 116.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, to call for the records in impugned order dated 26.07.2022 on the file of the fourth respondent and quash the same and grant such other relief deem fit and proper under the circumstances of the case.

For Petitioner : Mr.R.Rajarajan

For Respondents :
For R1 to R3 : Mr.N.R.R.Arun Natarajan
Special Government Pleader

For R4 : Mr.M.Karthikeyan

ORDER

Mr.N.R.R.Arun Natarajan, learned Special Government Pleader takes notice on behalf of the first to third respondents and Mr.M.Karthikeyan, learned counsel takes notice on behalf of the fourth respondent.

2. The petitioner has challenged the impugned notice 26.07.2022 and the steps taken by the fourth respondent, putting the shops of the petitioner under lock and seal. The challenge to the impugned notice and the steps taken by the fourth respondent is based on the order passed by the second respondent as early as 19.05.2015, under Section 78 of the Tamil Nadu



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Hindu Religious and Charitable Endowments Act, 1959 (hereinafter referred to as the TNHR&CE Act).

3. It is the case of the petitioner that the petitioner is not aware of the order passed under Section 78 of the TNHR&CE Act, referred to in the impugned notice dated 26.07.2022. This writ petition is stoutly opposed by the learned Special Government Pleader for the first to third respondents and also the learned counsel for the fourth respondent on the ground that the petitioner has been in arrears of the rent fixed in 2001 which was not revised in 2004.

4. It is further submitted that the petitioner has received notice under Section 78 of the Act on 05.03.2015 which was duly acknowledged and thereafter on 19.05.2015, an order came to be passed under Section 78 of the TNHR&CE Act. The petitioner has been squatting on the property of the Temple and she is earning income from renting 11 shops, from her tenants.

5. The Special Government Pleader for the first to third respondents submits that the writ petition is without any merits as the petitioner has not



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challenged the order dated 19.05.2015. It is submitted that even though the petitioner has paid the arrears of Rs.4,09,480/- as was demanded, it is submitted that those arrears are for use and occupation of the property. If relevant Government Orders are applied in terms of Section 34A of the TNHR&CE Act, the amount that is due is much higher. It is therefore submitted that the writ petition is liable to be dismissed as the petitioner is recalcitrant who has not paid the rents all those years in time.

6. I have considered the arguments advanced by the learned counsel for the petitioner, the learned Special Government Pleader for the first to third respondents and the learned counsel for the fourth respondent.

7. Though Section 78 order passed by the second respondent is dated 19.05.2015 and has not been challenged, the facts remains that the petitioner has been in occupation of the property since the passing of the aforesaid order. Whether the petitioner has been served with the copy of the order or not is not discernible from the records that have been produced before this Court.



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WEB COPY 8. Be that as it may, since the petitioner has been in occupation of the property and has paid arrears of rent at Rs.6,000/- per month, I direct the respondents to revise the arrears of rent payable by the petitioner from 2004 by applying the relevant Government Orders by re-fixing the ground rent at the rate of 15% at the end of every three years and issue a demand notice to the petitioner. This determination shall be made by the respondents within a period of six weeks from the date of receipt of a copy of this order. On such determination, the petitioner shall pay the amounts as may be determined by the respondents within such time as may be prescribed.

9. In case there is any failure on the part of the petitioner to pay the amounts to be determined by the respondents by applying the relevant Government Orders, the respondents are at liberty to proceed further.

10. Pending such exercise, the shops which has been put under lock and seal is directed to be de-sealed.



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WEB COPY 11. This Writ Petition stands disposed of with the above observations.

No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

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Index : Yes/No
Speaking/Non-Speaking Order

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Note: Issue Order Copy on 23.08.2022.

To

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2. The Joint Commissioner,
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C.SARAVANAN, J.

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