



WEB COPY



1

CRP.No.1441 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2022

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No. 1441 of 2017

and

CMP.No.6699 of 2017

Dr. Raja Saravanan

.. Petitioner

Versus

1. The Deputy Commissioner/
Executive Officer,
Arulmigu Parthasarathy Swamy Thirukkoil,
Triplicane, Chennai.
 2. The Commissioneer,
Hindu Religious and Charitable
Endowments,
Uthamar Gandhi Road,
Nungambakkam, Chennai - 600 034.
- ...Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 21.03.2018 made in A.P. No.31/2016-D2 of the 2nd respondent modifying the order of the 1st respondent dated 12.03.2015 made in Na.Ka.No.715 of 2012 A6 on the file of the 1st



respondent.

WEB COPY

For Petitioner : Mr. M.S. Subramanian
For Respondents : Mr. K. Balaji for R1
: No Appearance for R2 to R5

ORDER

This Civil Revision Petition has been filed by the petitioner seeking to set aside the order dated 21.03.2018 made in A.P. No.31/2016-D2 of the 2nd respondent modifying the order of the 1st respondent dated 12.03.2015 made in Na.Ka.No.715 of 2012 A6 on the file of the 1st respondent.

2. The petitioner is the tenant and the 1st respondent is the Temple -Landlord and the 2nd respondent is the HR & CE Department.

3.The 1st respondent-Temple issued a demand order dated 12.03.2015 in Na.Ka.No.715/2012/A6 to the petitioner herein fixing the fair rent from 01.12.2013 as Rs.65,850/- per month and requesting him to pay the balance amount of Rs.7,73,890/- to the Temple after adjusting the rent already paid from 01.01.2014 to 05.03.2015. Challenging the



aforesaid fixation of fair rent order dated 12.03.2015, the petitioner herein has filed A.P.No.31/2016-D2 before the 2nd respondent wherein the 2nd respondent reduced the fair rent from Rs.65,850/- per month to Rs.54,720/- per month and directed to pay the revised rent along with the accrued arrears within 30 days from the date of receipt of that order. Challenging the aforesaid findings of the 2nd respondent herein, the petitioner herein has filed the present Civil Revision Petition to set aside the same.

4. The learned counsel for the petitioner contended that the fair rent has been fixed by the committee without following the rules and procedure contemplated in the H.R. & C.E Act. In this regard, he has placed reliance of the Judgment of this Court passed in W.A. No.8 of 2008 in the case of *Arulmigu Angala Parameswari and Kasivishwanathaswami Temple, Vs. The State of Tamil Nadu and others* reported in 2009-3-L.W.728 wherein it is observed as follows:

“7. Section 34-A of the H.R. & C.E. Act is attacked in two grounds. One is that, no opportunity is given to the lessee before the lease rent is fixed and that the opportunity



WEB COPY

given to the lessee for the first time only in the appeal in the appeal to the commissioner is clearly an illusory one and that to satisfy the requirements of natural justice, the party should be given an opportunity at the time of the original proceeding.”

5.It has been further submitted that the 1st respondent-Temple has fixed the rent without giving any sufficient opportunity to the petitioner herein before fixing the fair rent and enhanced the rent by 7 times than the original rent fixed as per Agreement of lease dated 29.09.2000 unilaterally. The monthly rent shall be fixed taking into account the raise of 33% of existing rent which is Rs.9,680/- per month. Without considering the aforesaid factual aspects, the 2nd respondent has ordered to pay the revised rent of Rs.54,720/- per month with the accrued arrears within 30 days from the date of receipt of that order. Hence, the order dated 21.03.2017 passed by the 2nd respondent is liable to be set aside.

6. The learned counsel for the respondents would submit that the petitioner/tenant has not raised any objection at the time of fixation of fair



rent in order to evade the payment of arrears, he put forth false plea before this Court. avoid payment of arrears. The fair rent has been fixed as per the law and procedure contemplated under H.R.& C.E. Act. The petitioner herein has not complied with the order dated 21.03.2017 passed by the 2nd respondent so far in spite of notice given to him. Hence, this Revision petition is liable to be dismissed.

7. Heard both sides and perused the materials available on record.

8. On a perusal of the records, it is seen that the petitioner has renovated the building to the extent of 1509 Sq. Ft belonged to the temple at his own costs. In the mean while, the fair rent of Rs.65,850/- per month of the premises is fixed by the 1st respondent herein and thereafter it has been reduced at Rs.58,080/- by the 2nd respondent in the appeal as per direction given by this Court in W.A. No.888 of 2016. However, the contention of the petitioner is that he was not given sufficient opportunity to put forth his averments in fixation of fair rent as per direction given in the earlier Writ Appeal proceedings. Considering the earlier Writ Appeal direction, the petitioner shall be given sufficient opportunity with regard to



fixation of rent. The Commissioner is hereby directed to fix fair rent within a period of three months after affording sufficient opportunity to the petitioner herein from the date of receipt of copy of this order. Till the fixation of fair rent after giving sufficient opportunity to the petitioner herein under Section 34-A HR & CE Act, the Revision petitioner is hereby directed to pay rent Rs.25,000/- per month to the Temple and pay the part of arrears of rent of Rs.2,00,000/- within a period of three months from the date of receipt of copy of this order.

9. With the aforesaid directions, this Revision Petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

11.10.2022

Lbm

Index : Yes/No

Speaking Order : Yes/No



WEB COPY



To:

1. The Deputy Commissioner/
Executive Officer,
Arulmigu Parthasarathy Swamy Thirukkoil,
Triplicane, Chennai.
2. The Commissionier,
Hindu Religious and Charitable
Endowments,
Uthamar Gandhi Road,
Nungambakkam, Chennai - 600 034.
3. The Section Officer, V.R.Section
High Court, Madras.



WEB COPY



8

CRP.No.1441 of 2017

T.V.THAMILSELVI, J.

Lbm

C.R.P.No. 1441 of 2017
and
CMP.No.6699 of 2017

11.10.2022