



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Wednesday, the Nineteenth day of January Two Thousand Twenty Two

PRESENT

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

WMP.No.29314 of 2021

in WP.No.27743 of 2021

M.S.P.BALAKRISHNA CHETTY AND CO.,
PARTNERSHIP FIRM,
REP. BY ITS PARTNER M.SUDARSHANAM,
NO.24, DEVARAJAN MUDALI STREET,
CHENNAI 600 003.

[PETITIONER]

Vs

1 THE COMMISSIONER
HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS
DEPARTMENT, NUNGAMBAKKAM HIGH ROAD,
CHENNAI 600 034.

[RESPONDENTS]

2 THE JOINT COMMISSIONER,
HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS
DEPARTMENT,
VELLORE 4.

3 THE EXECUTIVE OFFICER
ARULMIGU ADI KESAVA PERUMAL AND BHASYAKARA
SWAMI THIRUKOVIL, SRIPERUMBUDUR,
KANCHIPURAM DISTRICT.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to grant interim stay of all further proceedings pursuant to the notice dated 22.11.2021 of the 3rd respondent herein in respect of the premises at door No.24, Devaraja Mudali Street, Chennai 600 001 (actually Chennai 600 003) (WMP.No.29314 of 2021) pending disposal of the above WP.No.27743 of 2021.

Order : This petition coming on this day for hearing upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.AR.L.SUNDARESAN, Senior Counsel for M/S.AL.GANTHIMATHI Advocate for the petitioner, the court made the following order:-



In this writ petition, though proceedings issued by the respondents Temple, dated 22.11.2021 was under challenge, considering the submission made by the learned Senior counsel, at the time of the first hearing, this Court passed the following interim order on 23.12.2021 :

" The petitioner has challenged the order passed by the respondent Temple dated 22.11.2021, whereby the rental arrears to the tune of Rs.77,74,880/- was demanded.

2. Since the said demand is challenged by the petitioner, Mr.AR.L.Sundaresan, learned Senior counsel appearing for the petitioner has submitted that, lastly the rent was revised in 2007 to the extent of Rs.26,170/- and as per the said revision, the petitioner has paid the rent without any default. Therefore, in that regard, there can be no arrears.

3. However, subsequently the rent had been revised from 01.07.2016 to the extent of Rs.1,34,065/- and based on which only, this arrears of Rs.77,74,880/- has been demanded now.

4. The learned Senior counsel would contend that, at any cause, the revision which has been made behind the back of the petitioner cannot be sustained. Assuming that, the respondents are empowered to revise the rent as per the procedure which can be increased at the maximum of double the rent already fixed in 2007. However, presently, it has been fixed more than four times. Therefore, it is an arbitrary fixation, he contended.

5. However, Mr.T.Chandrasekaran, learned Special Government Pleader appearing for the respondents, on instructions, would contend that, the rent was lastly fixed at the rate of Rs.26,170/- per month only in the year 2007. Thereafter, it was a long time to make for revision, as once in three years, that revision could be made and therefore, in the revision that was made from 01.07.2016, the committee constituted in this regard having considered the guideline value in respect of the property as well as the market value, has come to the conclusion that, a sum of Rs.62.50 can be fixed per sq.ft. and if that is the calculation, since the petitioner has occupied the 2145 sq.ft of Temple land, the said amount of Rs.1,34,065/- was fixed as a monthly rent from 01.07.2016 and out of the said amount, after deducting the rent paid by the petitioner, there has been an arrears to the extent of Rs.77,74,880/-. Therefore, the said demanded amount should be paid by the petitioner.

6. The learned Special Government Pleader would also point out that, the last of such revision since taken effect from 01.07.2016, thereafter further revision due was in the year 2019 and in 2019, if further revision is made, the arrears would be more than what has been now demanded, he contended.



7. I have considered the said submissions made by the learned counsel appearing for both sides and have perused the materials placed before this Court.

WEB COPY

8. In order to test the bonafide on the part of the petitioner as he has contended that, now it has been enhanced at a stretch for four times, this Court in order to balance the rights of both sides is of the view that, at least double the rent fixed in 2007 can be taken as a base rent for the purpose of making the interim arrangement and in that calculation, if it is taken up after the amount already been paid by the petitioner, at least the petitioner shall pay a sum of Rs.30 Lakhs out of the demanded amount of Rs.77 Lakhs and odd within a time frame that may be stipulated by this Court as an interim arrangement or otherwise, the respondents can proceed further pursuant to the impugned demand under the provisions of the Tamil Nadu Hindu Religious and Charitable Endowments Act.

9. In that view of the matter, the following interim orders are passed:

"(i) that the petitioner is directed to pay a sum of Rs.15 Lakhs within 15 days from today in his rental account with the respondent Temple and the remaining 15 Lakhs shall be paid by the petitioner within 30 days thereafter.

(ii) In order to testify the bonafide on the part of the petitioner as to whether the first installment payment is made within the time stipulated, this Writ Petition shall be listed on 11.01.2022.

(iii) It is made clear that, on that day, i.e., on or before the time stipulated herein above, if the first installment of Rs.15 Lakhs is not paid by the petitioner, no further indulgence would be shown to the petitioner and in that case, the respondents would be free to proceed further in this matter in accordance with the provisions of the H.R&C.E., Act to take whatever action against the petitioner which is available in the hands of the respondents under the provision of the said Act."

10. With the above conditions, the impugned order is stayed for a period of three weeks. Post the matter on 11.01.2022."

3. Under the said order, a conditional order has been made, by which, a sum of Rs.15 lakhs shall be paid within 15 days from the date of the order and another Rs.15 lakhs shall be paid within next 30 days.

4. However, even the very first installment of Rs.15 lakhs within 15 days from the date of the order has not been paid. This has been accepted by the learned Senior counsel appearing for the petitioner.



5. Under the third clause of the operative portion of the interim order, dated 23.12.2021, this Court has made clear that on or before the time stipulated, if the installment of Rs.15 lakhs is not paid by the petitioner, no further indulgence would be shown to the petitioner and in that case, the respondents would be free to proceed further in this matter in accordance with the provisions of HR & CE Act to take whatever action against the petitioner, which is available in the hands of the respondents under the provisions of the said Act.

6. In view of the said failure on the part of the petitioner in complying with the order passed by this Court, dated 23.12.2021, the said portion of the order indicated above shall come into operation and accordingly, it is now free for the respondents to proceed against the petitioner under Section 78 of the HR & CE Act.

7. It is made clear that, mere pendency of this writ petition will not preclude the respondents to proceed in accordance with Section 78 of the Act and by citing the pendency of the writ petition, the petitioner under no circumstances shall take shelter saying that Section 78 proceedings shall not go on, for which the petitioner shall not cooperate with the respondents to complete the Section 78 proceedings. If any such stand is taken by the petitioner showing the pendency of this writ petition as the reason, that would be construed as contempt of this Court. Therefore, it is open to the respondents to proceed in accordance with law, especially under Section 78 of the Act against the petitioner.

8. With these observation and direction, this miscellaneous petition is dismissed.

-sd/-
19/01/2022

/ TRUE COPY /

Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE COMMISSIONER,
HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS
DEPARTMENT, NUNGAMBAKKAM HIGH ROAD,
CHENNAI 600 034.

2 THE JOINT COMMISSIONER
HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS
DEPARTMENT,
VELLORE 4.



3 THE EXECUTIVE OFFICER
ARULMIGU ADI KESAVA PERUMAL AND BHASYAKARA
SWAMI THIRUKOVIL, SRIPERUMBUDUR,
KANCHIPURAM DISTRICT.

WEB COPY

C.C. to M/S.AL.GANTHIMATHI Advocate SR.NO.371

Order
in
WMP.No.29314 of 2021
in WP.No.27743 of 2021

Date :19/01/2022

From 26.2.2001 the Registry is issuing certified
copies of the Interim Orders in this format
GS(21/01/2022)