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W.P.No.19290 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.19290 of 2017

And

W.M.P.No.20794 of 2017

P.Elumalai

... Petitioner

Vs.

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

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

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Nungambakkam,
Chennai – 600 034.

4.Executive Officer,
Arulmighu Maruteeswarar Tirukovil,
Tiruvanmiyur,
Chennai – 600 041.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to
issue a Writ of Certiorarified Mandamus to call for the records in D.Dis.



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R.P.No.4/2017 D2 dated 18.05.2017 of the first respondent and quash the same and consequently direct the fourth respondent to allow the petitioner and his wife to live in the demised house property situated in No.30/30, Marichetty Street, Mandaiveli, Chennai – 600 028 till their life time on receipt of the rent at the rate of Rs.500/- per month.

For Petitioner : M/s.R.Amardeep

For Respondents : Mr.K.Karthikeyan for R1 to R3
Government Advocate (HR & CE)
Mr.P.Willson Topaz for R4
for M/s.A.S.Kailasam & Associates

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the records in D.Dis. R.P.No.4/2017 D2 dated 18.05.2017 of the first respondent and to quash the same and to consequently direct the fourth respondent to allow the petitioner and his wife to live in the demised house property situated in No.30/30, Marichetty Street, Mandaiveli, Chennai – 600 028 till their life time on receipt of the rent at the rate of Rs.500/- per month.

2.The case of the petitioner is that the petitioner is the tenant of the subject property. The second respondent on the basis of the



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application made by the third respondent required the petitioner to appear and give explanation. The petitioner and the fourth respondent appeared before the second respondent on 05.11.2015 and the fourth respondent stated that there is a due of Rs.4,45,081/- for the subject property. Thereafter, the second respondent asked the petitioner to pay a sum of Rs.2 Lakhs on or before 26.11.2015 and since the petitioner did not pay the amount, the second respondent held the petitioner as an encroacher and passed order under Section 78(2) of the HR & CE Act. Challenging the same, the petitioner filed revision before the first respondent, however, the first respondent confirmed the order passed by the second respondent. Hence, this writ petition.

3.The learned counsel appearing for the petitioner submitted that the petitioner is a legal tenant and he was allowed to reside continuously, however, the original Authority as well as the revisional Authority passed erroneous order and asked the petitioner to pay huge amount, which is contrary to the HR & CE Act.

4.The learned counsel appearing for the fourth respondent submitted that the Temple own various properties and based on the complaint given by the third respondent in terms of Section 78 (1) of



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the HR & CE Act, show cause notice was issued and enquiry was conducted and thereafter the petitioner's tenancy was terminated. The learned counsel further submitted that as per the guidelines issued in various Government Orders, the Temple fixed fair rent for the property at Rs.2,044/- with effect from 01.11.2001 and with an increase of 15% every three years, the fair rent as on 01.07.2013 was Rs.3,577/-.

5.The learned counsel appearing for the fourth respondent further submitted that the second respondent directed the petitioner to pay a sum of Rs.2 Lakhs, which is only a portion of the arrears, however, the same was not complied. Thereafter, the the second respondent passed an order under Section 78(2) of the HR & CE Act. Challenging the same, the petitioner filed revision before the first respondent, however, the first respondent confirmed the order passed by the second respondent. The learned counsel further submitted that the fact finding Authorities found concurrent findings as against the petitioner and till date the petitioner has not paid even a single paise.

6.Heard the arguments advanced on either side and perused the materials available on record.



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7.The facts in the case is not in dispute. The fact finding Authorities have already dealt with the issue in detail and have found concurrent findings as against the petitioner. Further, it is alleged that till date the petitioner has not paid even a single paise. No ground warranting interference of the impugned order has been raised in the writ petition. Hence, this Court is not inclined to interfere in the impugned order.

8.The petitioner is directed to vacate the premises, within a period of three months from the date of receipt of a copy of this order. The fourth respondent Temple is granted liberty to recover the arrears from the petitioner, in the manner known to law.

9.With the above observations, the writ petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

29.06.2022

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Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

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M.DHANDAPANI,J.
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To

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