



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.[MD]No.1367 of 2022

and

W.M.P.[MD]No.1211 of 2022

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S.Muthuvel

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Department of Tamil Development and Culture
and Hindu Religious Endowments Department,
St. George Fort, Chennai - 600 009.

2.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Revenue Department, St. George Fort,
Chennai - 600 009.

3.The Commissioner,
Hindu Religious and Charitable
Endowments Department,
Nungambakkam High Road, Chennai - 600 034.

4.The Executive Officer,
Arulmigu Kambaraya Perumal Kovil
and Kasi Viswanathar Kovil, Cumbum,
Theni District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the fourth respondent in his proceedings No.Nil dated 25.12.2021 and quash the same as illegal and consequentially to direct the respondents to constitute the Fair Rent Committee for fixation of fair rent for the occupation of site alone (Floor Rent) strictly in accordance with G.O.(Ms)No.59, Revenue dated 06.01.1970 and G.O.(Ms).No.103, Tamil Development Culture and Religious Endowment (R.E.11) Department dated 28.03.2006 and in terms of Section 34 of Hindu Religious and Charitable Endowments Act, 1959 within the period that may be stipulated by this Court.

For Petitioner : Mr.A.Nawaz Khan
for M/s.Ajmal Associates

For Respondents 1 to 3 : Mr.C.Satheesh
Government Advocate

For Respondent No.4 : Dr.C.Guhaseelarupan



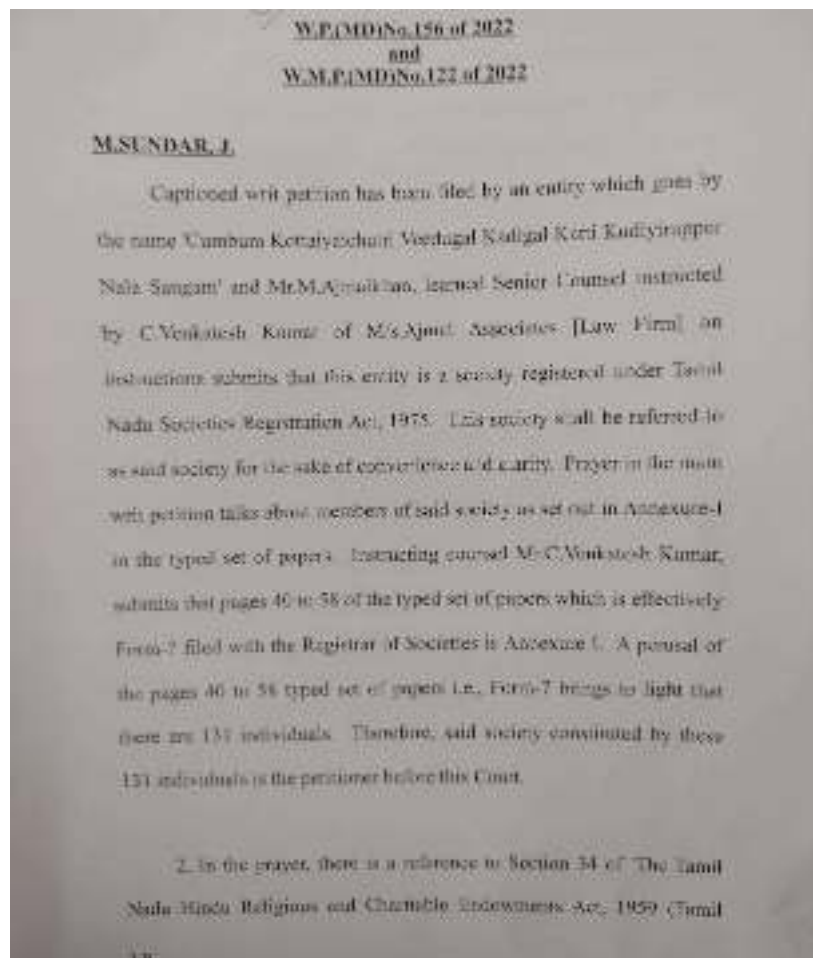
ORDER

In the captioned matter Mr.A.Nawaz Khan of M/s.Ajmal Associates [Law Firm] on behalf of writ petitioner, Mr.C.Satheesh, learned Government Advocate who accepts notice on behalf of respondents 1 to 3 and Dr.C.Guhaseelarupan, learned private Counsel who accepts notice on behalf of fourth respondent [Executive Officer of the temple concerned] are before this Court.

2.Learned Counsel for writ petitioner submits that the captioned matter is directly and squarely covered by a common order dated 24.01.2022 made by this Court in 20 writ petitions viz., W.P. [MD]Nos.156, 555 to 573 of 2022 which reads as follows:

'This common order will dispose of the captioned twenty main writ petitions and captioned W.M.Ps thereat.

2. In the captioned twenty main writ petitions, W.P (MD) No.156 of 2022 along with W.M.P(MD) No.122 of 2022 thereat was listed before this Court on 06.01.2022 and proceedings made by this Court on that day is as follows:





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Nadu Act No.22 of 1959) [hereinafter 'TN HR&CE Act' for the sake of brevity, convenience and clarity]. Learned counsel on record submits that this is a typographical error and requests this Court to read Section 34 as Section 34-A of TN HR&CE Act, which is captioned 'Fixation of lease rent'. Though the prayer refers to 'fair rent' it is a obvious reference to 'lease rent' as Section 34-A talks about lease rent. Learned counsel has already requested this Court to treat Section 34 of TN HR&CE Act as a typographical error and to read the same as Section 34-A of TN HR&CE Act. Therefore, I read fair rent as lease rent. Such errors more so there in one prayer should necessarily be avoided in days to come.

3. This Court now proceeds to record the facts that came to light in the Admission Board herein and they are as follows:

- a) 'Arulmighu Kambarayapenmal Kasi Viswanathan and Gowmarajammal temples situate in Cumbum, Uthamapalayam Taluk, Theni District' (hereinafter 'said temple' for the sake of convenience and clarity) is the nucleus of the captioned matter;



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b) the nucleus of the captioned matter is further constituted by land admeasuring 10.10 acres or thereabouts which is described as lands in Survey No. 769 and additional lands admeasuring 10.10 acres in Survey No.857 in 27, Uthamapuram Village, Theni District (hereinafter 'said land' for the sake of convenience and clarity);

c) G.O.Ms.No.59 Revenue dated 06.01.1970 was issued *inter alia* assigning said land to said temple. In this G.O.Ms.No.59, Government had made it clear that said temple can fix rent for occupants treating them as land lessees under said temple qua said land;

d) thereafter, Section 34-A of TN HR&CE Act kicked in on and from 10.05.2003;

e) post Section 34-A of TN HR&CE Act, G.O.Ms.No.103 Tamil Development, Culture and Hindu Religious Endowment Department dated 28.03.2006



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W.P.(MD)No.156 of 2022

came to be issued by the Government *inter alia* referring to G.O.Ms.No.59 and saying that lease rent can be fixed for the occupants qua said land and according to this Government Order the occupants are constituted by 84 shops, 183 houses and 2 vacant sites;

f) aforementioned G.O.Ms.No.103 was challenged by said society in this Court vide W.P.(MD)No.1634 of 2007 besides a suit which culminated in S.A.(MD)No. 497 of 2007, this writ petition and the second appeal came to be dismissed by a common order dated 22.09.2008 made by a Hon'ble single Judge;

g) thereafter, 23 individuals claiming that they are lessees under said temple qua said land assailed fixation of lease rent under Section 34-A of TN HR&CE Act and the same culminated in 23 statutory revisions under Section 34-A (5) of TN HR&CE Act. These 23 statutory Civil Revision Petitions were disposed of by another Hon'ble Single Judge in and by a common order dated 19.02.2013. In this order, learned Single Judge had



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remitted the matter to the Lease Rent Fixation Committee for fixation of lease rent;

h) in the interregnum, the aforementioned 22.09.2008 order of Single Judge had been carried in appeal vide W.A.(MD)No.449 of 2010 along with a review being Review Application (MD)No.40 of 2010 in S.A.(MD)No.497 of 2007. A Hon'ble Division Bench in and by an order dated 11.11.2019 dismissed the writ appeal as well as the review in the second appeal, both of which were filed by said society;

i) the above trajectory means that said temple can fix lease rent *inter alia* under Section 34-A of TN HR & CE Act for occupants qua said land and learned Senior Counsel very fairly submitted that there is no dispute or disagreement that this is the obtaining position;

j) when things stood as above, one R.A.Ganesan, who has described himself as Secretary of said sangam



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has sent a representation dated 20.10.2020 to respondents 1, 3 and jurisdictional Joint Commissioner of Tamil Nadu Hindu Religious and Charitable Endowment Department i.e., Joint Commissioner, Dindigul. A perusal of this representation *inter alia* brings to light that proceedings under Sections 78 and 79 of TN HR&CE Act have been initiated against members of said society.

4. In the above fact setting, said society has come up with the captioned writ petition with a prayer to mandamus the respondents i.e., forbear the respondents from demanding what according to the petitioner society is exorbitant rent qua aforementioned 131 members without fixing fair rent in accordance with aforementioned G.O.Ms.No.59 dated 06.01.1970 and G.O.Ms.No.103 dated 28.03.2006 in terms of Section 34-A of TN HR&CE Act by considering the petitioner's representation dated 20.10.2021.

5. As already alluded to supra, learned Senior Counsel very fairly submits that the obtaining position that said temple can fix lease rent for



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members of said society qua said land is beyond the pale of any dispute or disagreement.

6. Mr.A.Baskaran, learned Additional Government Pleader accepted notice on behalf of respondents 1 to 3, Dr.C.Guhaseelaran, learned Private Counsel accepted notice on behalf of fourth respondent (Executive Officer of said temple). Learned State Counsel and learned private counsel for fourth respondent requested for some time to get instructions *inter alia* regarding a) fixation of fair rent and b) details / particulars of proceedings under Sections 78 and 79 of TN HR&CE Act already alluded to *supra*.

7. This Court is also informed by learned Senior Counsel on instructions that 18 separate writ petitions by 18 individuals have been filed assailing what according to learned Senior Counsel is notices from Executive Officer of said temple demanding rent. It is submitted that the challenge in these 18 writ petitions is on the basis that rent has been demanded without fixing lease rent. It is also submitted that learned Senior Counsel has been briefed in these matters and he would be appearing in the Admission Board. This Court is informed that these 18



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writ petitions are lying under objections, they would be processed, numbered and brought on board by the counsel on record by Tuesday i.e., 11.01.2022.

8. This Court is of the considered view that it may be appropriate to take up the captioned writ petition along with aforementioned 18 writ petitions in the Admission Board.

9. In the next listing Registry to show the names of State Counsel and private counsel for fourth respondent.

10. List captioned writ petition in the Admission Board on 11.01.2022.

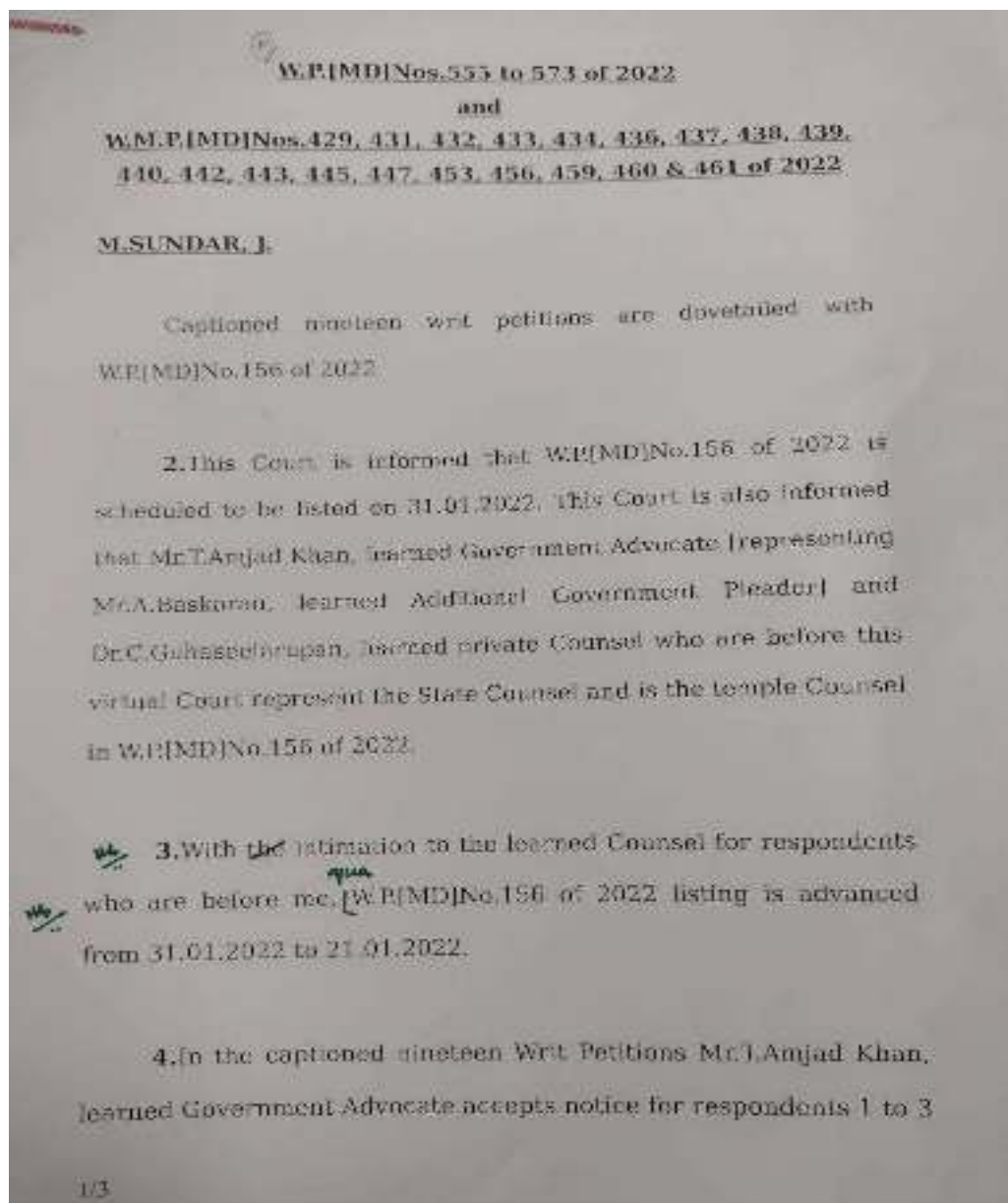
06.01.2022

3. Before this Court proceeds further, it needs to be recorded that as of today the above proceedings are not available in the High Court website in spite of the same having been duly transferred to NIC server. This may well be because of a technical glitch, error procedural lapse or some gap in the uploading procedure that is now being followed. This will be looked into on the administrative side. Be that as it may, this Court gave option to all the counsel before it to take up the captioned matters after the above proceedings are uploaded but learned Senior Counsel for writ petitioner, State counsel and private counsel for Temple submitted in unison, in one voice that the captioned matters can be taken up and



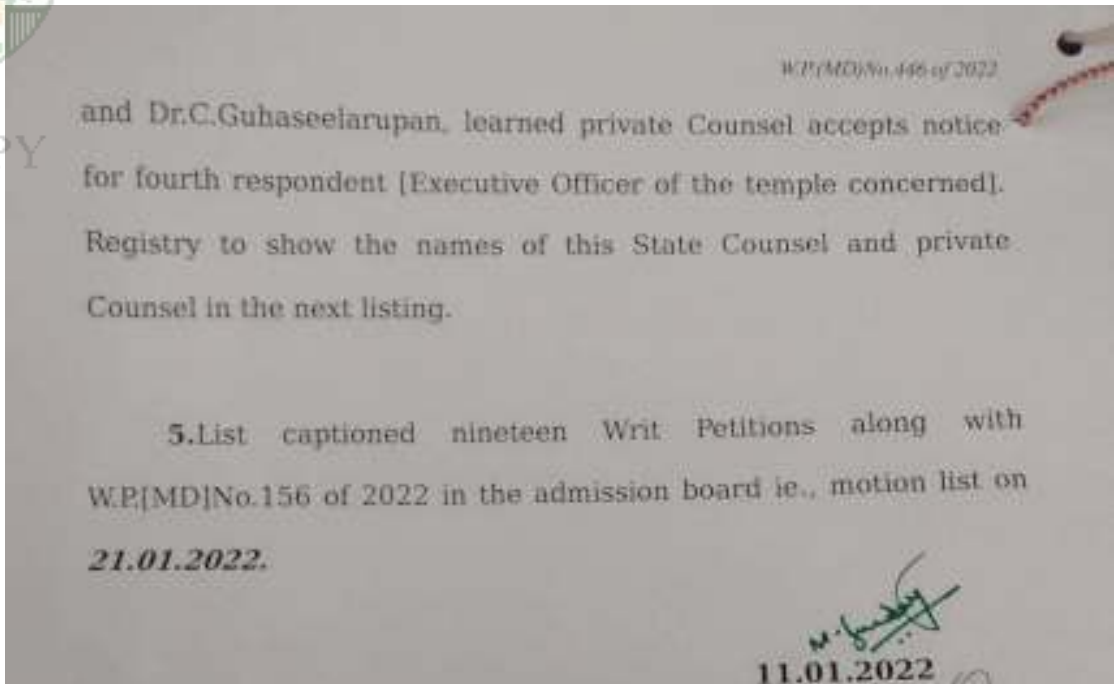
heard out as they are aware of the 06.01.2022 proceedings which was dictated aloud in open Court. In any event, for ease of reference and recapitulation the same was also read out aloud by the Court in the hearing today. Therefore, with the consent of all the counsel on both sides, captioned main writ petitions were taken up and heard out.

4. In the aforementioned proceedings, there is a reference to eighteen writ petitions by eighteen individuals but the same is actually nineteen writ petitions (W.P.(MD) Nos.555 to 573 of 2022). These nineteen main writ petitions together with the W.M.Ps thereat were listed before this Court on 11.01.2022 and the proceedings made by this Court is as follows:





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5. To be noted, the aforementioned proceedings dated 11.01.2022 has been duly uploaded in the Hight Court website.

6. The aforementioned two proceedings shall be read as an integral part and parcel of this common order. This means that the factual matrix, issues that fall for consideration as well as the trajectory the matter has taken have been captured and set out supra. This sets the stage for disposal of the matter.

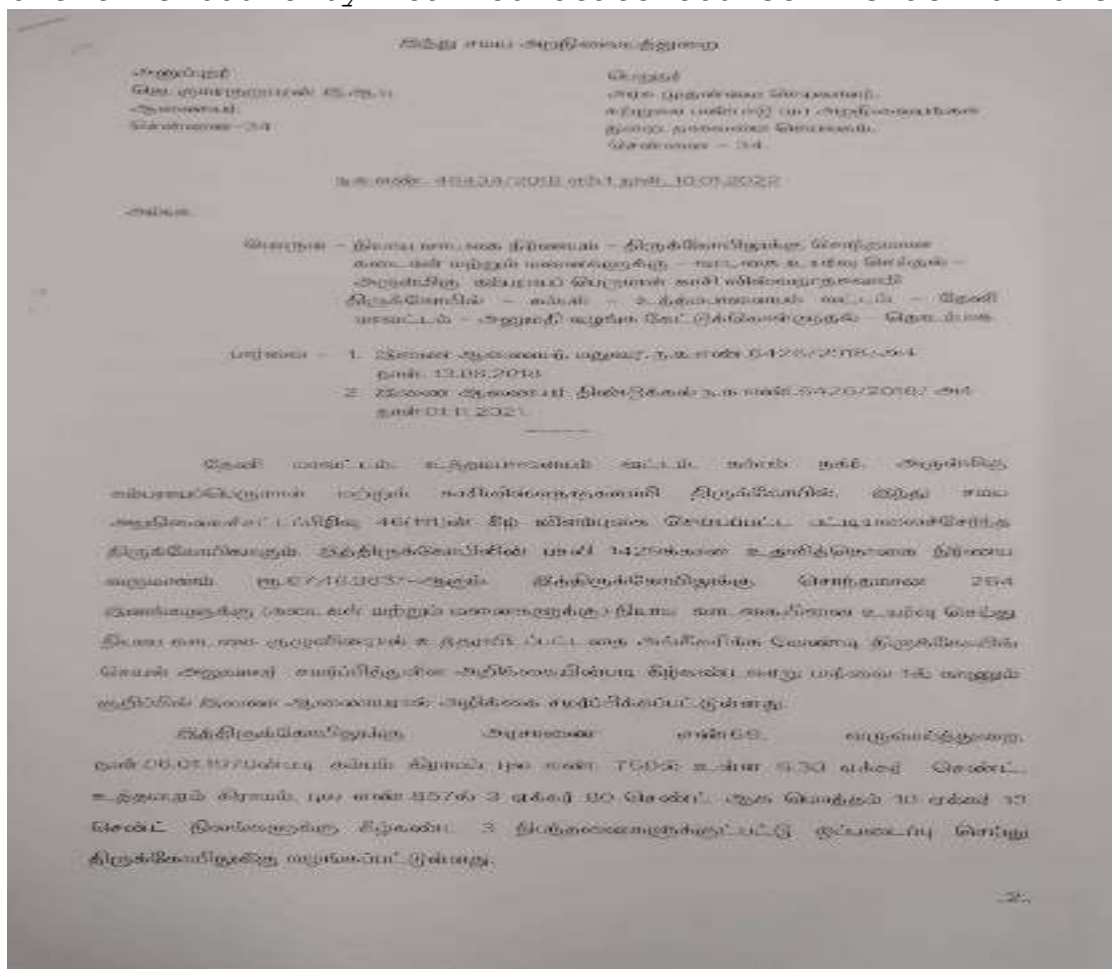
7. Though there are several earlier proceedings, the matter turns on one short point and that one short point is lease rent fixed by Lease Rent Fixation Committee i.e., has not been communicated to the persons in occupation of demised portions concerned giving what is described as working sheet (கணக்கீட்டு தாளி).

8. Before proceeding further, it is made clear that the short forms/abbreviations, references used in the earlier proceedings (scanned and reproduced supra elsewhere in this order) continue to be used in the instant proceedings also for the sake of convenience and clarity.

9. On instructions, Mr.A.Baskaran, learned Additional Government Pleader and Mr.T.Amjadkhan, learned Government Advocate (State counsel collectively)



submitted that fixation of lease rent under Section 34-A of TN HR&CE Act was escalated to the Commissioner of the 'Tamil Nadu Hindu Religious & Charitable Endowments Department' which shall hereinafter referred to as 'TNHR&CE Dept' (for the sake of convenience and clarity) and the Commissioner vide 'proceedings/recommendations dated 10.01.2022 bearing reference ந.க.எண்.46434/2018எம்.1; (hereinafter 'said proceedings/recommendations of the Commissioner' for the sake of convenience) has made a recommendation to the Government i.e., Government of Tamil Nadu and the same is under active consideration of 'the Government of Tamil Nadu' ('first respondent' to state with specificity). A scanned reproduction of proceedings dated 10.01.2022 i.e., the said proceedings/recommendations of the Commissioner as placed before this Court by learned State counsel is as follows:





- [illegible]

மேற்கூறிய திருத்தமொன்றினால், ரூ.1,200 ரூபாய் அளவான நிலை எண் 103 துயிர்வாங்கிச்சிட்டு பண்பாடு மற்றும் அறிவியல் அறிவுகளை நாம் 25.03.2005 அன்று வாடகை நிர்ணயம் செய்யப்பட்டுள்ளது அளவான நிலை எண் 105, துயிர்வாங்கிச்சிட்டு பண்பாடு மற்றும் அறிவியல் அறிவுகளை நாம் 09.11.2007 அன்று ஒயர்வாங்கி ஆய்விக்கும் 15 சதவீதம் வாடகை உயர்வு செய்ய அனுமதி வழங்கிப் பின்வருகின்ற தொகுப்பு முன்றலில் ரூ.07,2004, ரூ.07,2007, ரூ.07,2010 மற்றும் ரூ.07,2013 ஆகிய தேதிகளில் தவிர வாடகை நிர்ணயம் செய்து வாடகை உயர்வு செய்யப்பட்டுள்ளது அளவான நிலை எண் 103-ல் கண்ட உத்தரவின்படி 01.11.2001 முதல் வாடகை உயர்வு செய்வதற்கு அனுமதி வழங்கிப் பின்வருகின்ற கண்டவைகளைப் பெற்றிருக்கின்ற தொகுப்பு வாடகைக்கு விடப்பட்டு வழங்கிய வாடகைதவிர்த்த உயர்வு செய்யப்பட்ட வாடகை தொகுப்புகளைச் செலுத்தாமல் இருப்பதைத் தவிர 01.07.2015 முதல் வாடகை உயர்வு செய்வதற்கு அனுமதி செய்ய முற்பட்ட போது வாடகைதவிர்த்துக்கும் திருத்தமொன்றில் நிர்ணயத்திற்கு வந்தவரை ஏற்பட்ட இவ்வாறு சட்டம் ஒழுங்கு பிழச்சை அளவான நிலை எண் 105-ல் கண்ட உத்தரவின்படி 01.11.2001 முதல் வாடகை உயர்வு செய்வதற்கு அனுமதி செய்யப் பணி செய்ய இயலாத சூழ்நிலை ஏற்பட்டுள்ளது.

மேலும் தொடர்ந்து வடகாசத்திற்காக திருக்கோயிலுக்கும் செலுத்த வேண்டிய வடகாச தொண்டைப்பிணை பொதுத்தாது காரணத்தினால், திருக்கோயிலுக்கு பெருந்த பொழுதானது வரும் வரம்பட்டதைத் தொடர்ந்து வடகாச நிவாரணத்தொண்டை முழுமையையும் வசூல் செய்யப்போது சட்டம் மீறும் ஒழுக்கத்தை ஏற்படுத்த சிறப்பு திட்டமாக நடுவரை நிபாணம் செய்யுமாறு உத்தரவுகளையும் உட்கோட்ட திட்டமாக நடுவரை கோட்டுக் கொள்ள திருக்கோயில் தகவரால் தீர்மானம் நிறைவேற்றப்பட உள்ளது.



செ. 11 கமிட்டியின் உண் 279 துணைப்பின் 204 துணைப்புகள், டி. ஏன் தீர்மானம் எண் தீர்மானம் செயல்பட்டிருக்கிறது. மேலும் 12 துணைப்புகளுக்கு சிபார்சு விவரம். தீர்மானம் எண் எண் தீர்மானம் செயல்பட்ட துணைப்பின் தீர்மானம், உ. தீர்மானம் தீர்மானம். மற்ற 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820,

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1. வினாக்கள் கேள்விகள்	1. பொதுமக்கள் கேள்விகள் 2. சிபார்சுக்கள்	ஆணையர் R.P.No.131/2016/O2. நாள்: 26.12.2016.
2. அறிவிப்புகள்	3. அக்டிவாட்டிபிகேஷன்	ஆணையர் R.P.No.247/2019/O2. நாள்: 25.04.2017.
3. மேலாண்மை	4. என்.டி.டி.பி.காண்கள்	ஆணையர் R.P.No.254/2017/O2. நாள்: 10.05.2018.
4. பெயர்சரிசு	5. எழுத்துப்பெயர்	ஆணையர் R.P.No.92/2017/O2. நாள்: 10.05.2019.

பொது மனம் மூலம் விட்டிருக்கிறது

[illegible]

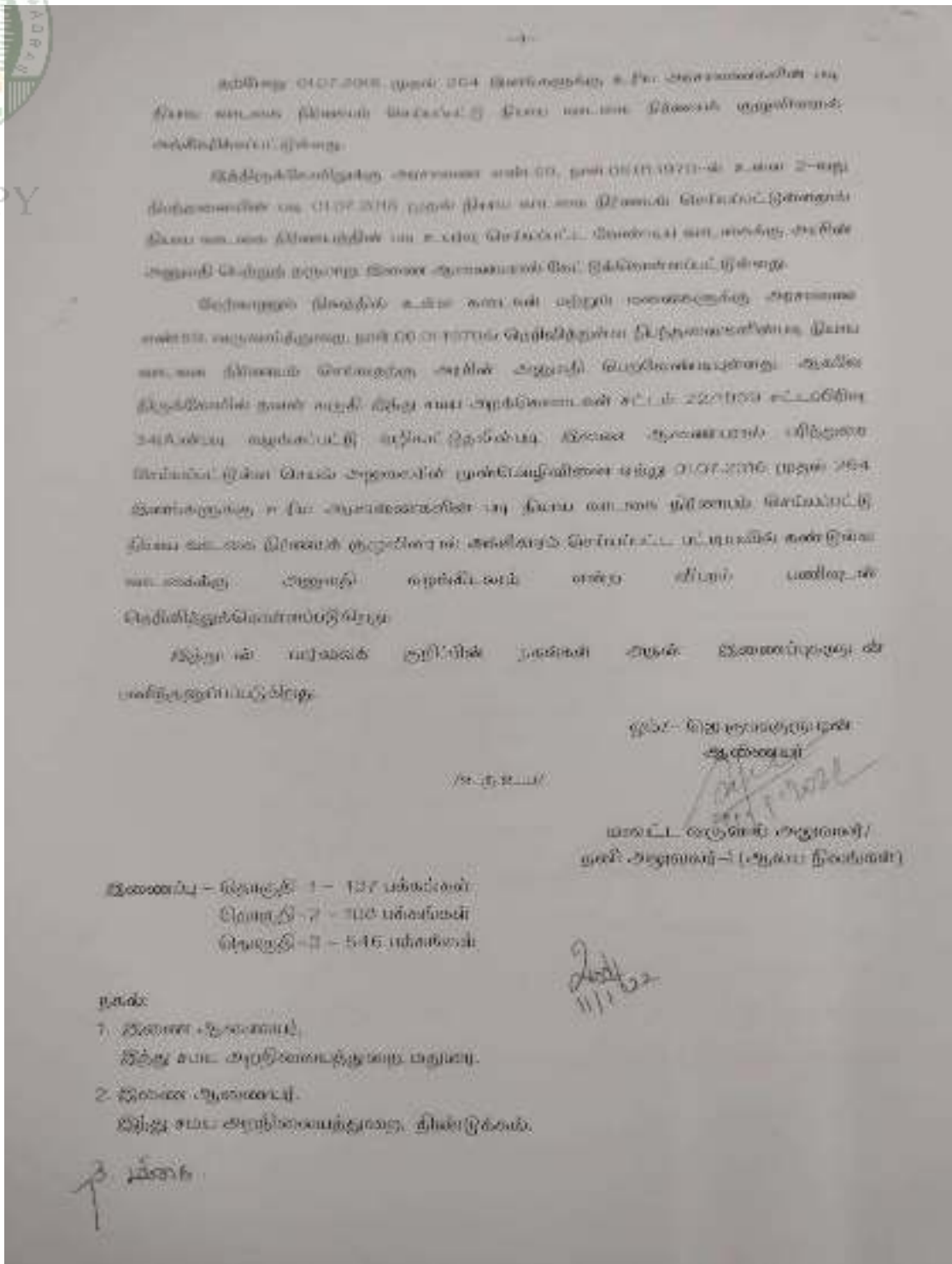
திரைப்பட வரலாறு தொடர்பான திட்டமிடல்கள் தொடர்பான செய்திகள் :

1. செயல்பாடுகள்	8. உ. த. துணைப்பணி, உ. நிலையிடம் நீதிமன்றம், இலாபம் 296/2013
2. துணைப்பணி பாடப்பாடல்கள் (12)	9. 10. அட்டிபிளவு 78-ன் கீழ் அமைக்க
3. செயல்பாடுகள் இலாபம்	11. செயல்பாடுகள் இலாபம்
4. அட்டிபிளவு இலாபம்	12. அட்டிபிளவு இலாபம்

மேலும், மேற்படி திருச்செவியிலுக்குச் சொந்தமான 90 கடைகள், 185 மனைகளில் முடிபாளையக் கடைகளைச் செலுத்தாத நிலைக்குக் கடைகள் மற்றும் நிலைகள் மனைகளைச் சட்டப்படி 75-ம் கீழ் நடவடிக்கை எடுக்கப்பட்டு மதுரை, திண்டுக்கோர் ஆகியவைகள் உத்தரவின்படிப் பு.பு நிவாக முத்தியைப் பட்டினிவைத்.



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10. Dr.C.Guhaseelarupan, learned private counsel who has entered appearance on behalf of the Executive Officer of said Temple submitted that huge arrears of rent from various occupants of various demised portions had triggered the issuance of notices demanding arrears i.e., impugned notices qua nineteen out of captioned twenty writ petitions. Learned private counsel has also now filed a typed set of papers dated 10.01.2022 which inter-alia contains details of lease rent fixed together with determinants/parameters (கணக்கீட்டு தாள்) as well as details



of proceedings initiated (inter-alia under Section 78 of TN HR&CE Act) against as many as 43 persons in occupation of various demised portions.

11. Learned Senior Counsel placed reliance on **Angala Parameswari** principle being case law vide *Arulmigu Angala Parameswari and Kasivishwanathaswami Temple Adimanaiveal House Owners Association v. State of Tamil Nadu, rep. by its Secretary to Government, Hindu Religious and Charitable Endowment Department, Chennai and others*, reported in (2009) (6) CTC 512 to say that it is imperative that the working sheet is served whenever Section 34-A of TN HR&CE Act is resorted to. In the case on hand owing to the peculiar facts and circumstances, it may not be necessary to dilate further on that as this is a case where the Executive Officer of said Temple has to necessarily await the decision of the Government in response to said proceedings/recommendations of the Commissioner of TNHR&CE Dept. This is owing to earlier Government Orders the details of which have already been captured in the proceedings made on 06.01.2022 in W.P(MD) No.156 of 2022 (scanned and reproduced supra elsewhere in this order). Therefore in the same spirit, other case laws namely, *Jamshed Hormusji Wadia v. Board of Trustees, Port of Mumbai and Another* reported in (2004) 3 SCC 214, *M.Gurusamy Nadar v. Commissioner, Hindu Religious & Charitable Endowment Department, Administration Department, Chennai-34 & Ors.*, reported in 2018 (3) MWN (Civil) 167 and an unreported order dated 16.07.2014 made by learned Single Judge in W.P(MD) Nos.167 of 2013 & 15336 of 2012 need not be delved into at this stage. The simple reason is the Executive Officer has put the cart before the horse by issuing the impugned notices computing the arrears on the basis of enhanced lease rent before the Government has taken a decision on the aforementioned said proceedings/recommendations of Commissioner. On this simple point, the impugned notices in the nineteen writ petitions will have to be dislodged but the same can either be resuscitated, reissued or suitably issued depending on decision to be taken by the Government. To be noted, in a normal legal drill under Section 34-A of TN HR&CE Act, the matter need not to be escalated to the Commissioner of TNHR&CE Dept or the Government at the first stage i.e., at the lease rent fixation stage. Owing to the peculiar facts of the case on hand, particularly, the earlier Government Orders in this case, the Executive Officer of said Temple (fourth respondent) has to await the decision of the Government. Therefore, this aspect of the matter will not serve a



precedent as it is unanimous from the unique facts and circumstances of this case.

12. This takes us to the decision to be taken by the first respondent-Government. Both learned State counsel, on instructions, submit in one voice that the Government would take a decision qua said proceedings/recommendations of the Commissioner of TNHR&CE Dept within six weeks from today i.e., on or before 04.03.2022.

13. In the light of the narrative discussion and dispositive reasoning supra, the following order is passed:

(a) Impugned notices dated 25.12.2021 issued by fourth respondent Executive Officer of said Temple qua W.P(MD) Nos.555 to 573 of 2022 are set aside solely on the ground that the fourth respondent could have issued those notices only after the Government takes a decision on the proceedings/recommendations of the Commissioner of TNHR&CE Dept being proceedings dated 10.01.2022 bearing reference **ந.க.எண்.46434/2018எம்.ஈ**.

(b) The sequitur to the previous limb of the order is, it has made clear that the impugned notices are not set aside by expressing any opinion on merits. It is set aside solely on the ground that fourth respondent-the Executive Officer should await the decision of the Government;

(c) A further sequitur is, the impugned notices which are set aside can be issued afresh either in the same form or in any other modified form (depending upon the decision taken by the Government) at a suitable juncture;

(d) Post Government taking a decision on or before 04.03.2022 on the proceedings/recommendations of Commissioner dated 10.01.2022, the Executive Officer shall communicate to the individuals the fair rent fixed in accordance with the obtaining position of law and procedure governing Section 34-A;

(e) The above communication will necessarily mean that the working sheet (**கணக்கீட்டு தாள்**) in the manner now placed before this Court by way of typed set of papers of fourth respondent should be communicated to the individuals. Thereafter depending on the trajectory the matter takes the impugned notices can either be resuscitated or



reissued in a suitable manner with or without modifications;

(f) All other collateral proceedings such as the proceedings under Section 78 initiated against various occupants of various demised portions will continue in accordance with law on their own merits and all the rights and contentions of both sides are left open in this regard;

(g) Regarding Section 34-A of TN HR&CE Act proceedings also i.e., fixation of lease rent, all the rights and contentions of both sides including rights and contentions raised in the instant captioned writ petitions are left open as the matter will stand resuscitated on Government taking a decision on or before 04.03.2022;

(h) In the interregnum, solely as a matter of interim measure, all the petitioners before this Court i.e., 131 members (as captured in paragraph 4 of 06.01.2022 proceedings) shall pay fifty percentage (50%) of the existing rent as enhanced or the enhanced rent claimed whichever is lesser. This limb of the order alone is by consent qua writ petitioners. For illustration, if the obtaining rent is Rs.100/- per month, they will pay Rs.150/- per month or the enhanced rent now fixed if the same is less than Rs.150/- per month;

(i) The earlier limb of this order (interim arrangement qua enhanced rent) is made by this Court in its capacity as parens patriae qua the said Temple, the idol which is in the status of a minor and this Court being guardian. Law is well settled in this regard. Hon'ble Supreme Court in **A.A.Gopalakrishnan's** case [A.A.Gopalakrishnan v. Cochin Devaswom Board and Ors.,] reported in (2007) 7 SCC 482, is the lead case in this regard. This Court reminds itself that it is a custodia legis qua said properties/public temple;

(j) The above interim arrangement is made inter-alia taking into account the fact that lease rent was last fixed wayback in 2011, to be precise on and from 01.11.2001 more than two decades ago.

(k) The aforementioned interim arrangement of paying 50% enhancement or enhanced rent whichever is lesser is clearly a adhoc arrangement. Post decision by Government on the said recommendation made by the Commissioner of TNHR&CE Dept and at the time of communication of fair rent by the fourth respondent to 131 occupants, this payment will be suitably adjusted by giving credit qua rent dues.



14. Captioned main writ petitions are disposed of in the aforementioned manner with the aforementioned directives. Consequently, all the captioned W.M.Ps are disposed of as closed. There shall be no order as to costs.'

3.Learned Counsel for writ petitioner submits that writ petitioner is one of the 131 individuals referred to in the aforementioned order.

4.Learned State Counsel and learned private Counsel for Executive Officer of temple concerned submit that if that be the case, the earlier proceedings qua the aforementioned order will hold good for the case on hand also.

5.Therefore captioned main writ petition and captioned Writ Miscellaneous Petition thereat are disposed of by holding that the captioned matter will also stand governed by common order dated 24.01.2022 made in W.P.[MD]Nos.156, 555 to 573 of 2022. There shall be no order as to costs.

Sd/-

Assistant Registrar(AS)

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/ /2022

Sub Assistant Registrar(CS)

MR

NOTE: *In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.*

To

1.The Secretary to Government,
State of Tamil Nadu,
Department of Tamil Development and Culture
and Hindu Religious Endowments Department,
St. George Fort,
Chennai - 600 009.



2.The Secretary to Government,
State of Tamil Nadu,
Revenue Department,
St. George Fort,
Chennai - 600 009.

3.The Commissioner,
Hindu Religious and Charitable
Endowments Department,
Nungambakkam High Road,
Chennai - 600 034.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-2561[F] dated
27/01/2022)

+1 CC to M/s.C.GUHASEELARUPAN, Advocate (SR-2653[F] dated
27/01/2022)

+1 CC to M/s.SPL.GP (SR-3111[F] dated 31/01/2022)

ORDER MADE IN
W.P. [MD]No.1367 of 2022
27.01.2022

nsn(CO)
TR(16.03.2022) 20P 7C