



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.02.2022

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THE HONOURABLE MR. JUSTICE C. SARAVANAN

W.P(MD) .No.2870 of 2022
and
W.M.P(MD) .No.2512 of 2022

S.Iyem Perumal

... Petitioner

Vs.

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

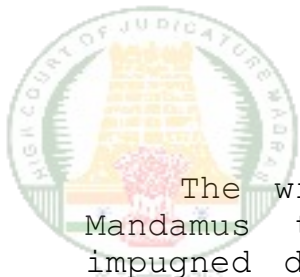
2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Palayamkottai,
Tirunelveli-627 002.

3.The Executive Officer,
Arulmigu Soundara Pandeewarar Temple,
Melakaruvelankulam,
Nanguneri Taluk,
Tirunelveli District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pursuant to the third respondent's impugned demand notice dated 04.02.2020 and 26.04.2021 quash the same and consequently direct the first respondent to entertain the petitioner's appeal dated 23.05.2021 filed under Section 34 (a) of the Tamil Nadu Hindu Religious and Charitable Endowment Act 1959 and fix the fair rent for yearly rent on the petitioner lease hold property in an extent of 22 cents in Survey No.690 of 2018, Padalayarkulam Village, Nanguneri Taluk, Tirunelveli District under Section 34 (A) of Hindu Religious and Charitable Endowments Act, 1959 in accordance with law.

For Petitioner	:	Mr.J.John
For R1 & R2	:	Mr.P.T.Thiraviam Government Advocate
For R3	:	Mr.C.Guhaseela Rupan

**ORDER**

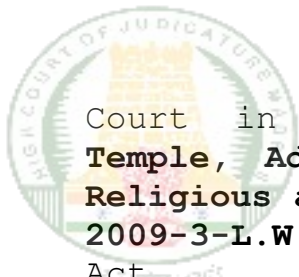
The writ petition has been filed for Writ of Certiorarified Mandamus to call for the records pursuant to the third respondent's impugned demand notice dated 04.02.2020 and 26.04.2021 quash the same and consequently direct the first respondent to entertain the petitioner's appeal dated 23.05.2021 filed under Section 34 (a) of the Tamil Nadu Hindu Religious and Charitable Endowment Act 1959 and fix the fair rent for yearly rent on the petitioner lease hold property in an extent of 22 cents in Survey No.690 of 2018, Padalayarkulam Village, Nanguneri Taluk, Tirunelveli District under Section 34 (A) of Hindu Religious and Charitable Endowments Act, 1959

2. It is the case of the petitioner that the petitioner was issued with a show cause notice dated 11.11.2017 and that the petitioner replied to the same on 20.11.2017. Thereafter, the respondents have proceeded to terminate the lease and therefore the petitioner has preferred an appeal before the first respondent and the first respondent has returned the appeal stating that the petitioner not complied with the requirements of Proviso to Section 34-A (5) of the HR&CE Act.

3. The learned counsel for the petitioner submits that originally, the petitioner was paying approximately a sum of Rs.2,000/- (10 marakal) per year . However, the respondents by the show cause notice, dated 11.11.2017 has proceeded to impose a rent of Rs.14,400/- per annum. The learned counsel for the petitioner further submits that the petitioner has sent representation and has also challenged the order of fixing the fair rent under Section 34 A of the HR&CE Act and also the impugned order, dated 26.04.2021 directing the petitioner to vacate from the premises. The learned counsel for the petitioner has placed reliance on the decision of the Division Bench of this Court in **Arulmigu Angala Parameswari and Kasivishwanathaswami Temple, Adimanaiveal House Owners Asso. Vs The Secretary, Hindu Religious and Charitable Endowment Department and others** reported in **2009-3-L.W.728**.

4. Opposing the prayer, the learned counsel for the respondents submits that the pre-deposit of the rent shall be paid under the and the proviso to Section 34-A (5) of the HR&CE Act and therefore there is no scope to interfere, on behalf of the petitioner. It is further submitted that the petitioner has also accepted to abide by the fair rent to be fixed, by his reply letter, dated 20.11.2017 and therefore, on this count also, there is no merits.

5. Heard the learned counsel for the petitioner and the learned counsel for the respondents. Perused the documents filed in support of the writ petition and the decision of the Division Bench of this



Court in **Arulmigu Angala Parameswari and Kasivishwanathaswami Temple, Adimanaiveal House Owners Asso. Vs The Secretary, Hindu Religious and Charitable Endowment Department and others** reported in **2009-3-L.W.728** referred to supra and the provisions of the HR & CE Act.

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6. A overall reading of the facts and circumstances of the case and after considering the submissions of the learned counsel for the petitioner and the respondents, what is evident is that, though the notice has been issued to refix the fair rent in terms of Section 34-A of the HR&CE Act, no order, as contemplated as per sub Section 2 of Section 34-A of the Act has been passed by the Executive Officer, Chairman of the Board of Trustee, the third respondent herein. When the law mandates for particular thing to be done in a particular manner. Then it has to be done in that manner.

7. The decision of the Hon'ble Division Bench of this Court **Arulmigu Angala Parameswari and Kasivishwanathaswami Temple, Adimanaiveal House Owners Asso. Vs The Secretary, Hindu Religious and Charitable Endowment Department and others reported in 2009-3-L.W.728** merely uphold the constitutional validity of Section 34 A of the Act.

8. Considering the above, the impugned order directing the petitioner to vacate the premises is quashed and the case is remitted back to the third respondent to exercise the jurisdiction under Section 34-A (2) of the HR&CE Act and pass appropriate orders on merits and in accordance with law within a period of four weeks from the date of receipt of copy of this order. It is needless to state before passing any such order, the petitioner also be heard. The Writ Petition stands disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AS)

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Sub Assistant Registrar(CS)

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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.

<https://hcservices.ecourts.gov.in/hcservices/>



To

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

2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Palayamkottai,
Tirunelveli-627 002.

+1 CC to M/s.C.GUHASEELARUPAN, Advocate (SR-6015[F] dated
14/02/2022)

+1 CC to M/s.SPL GP (SR-6459[F] dated 16/02/2022)

W.P (MD) .No.2870 of 2022

AP(26.02.2022) 4P 5C