



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.02.2022

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P (MD) .No.3709 of 2022

and

W.M.P. (MD) .No.3230 of 2022

WEB COPY

- 1.S.Rajendran
- 2.K.Paneerselvam
- 3.S.Panchavarnam
- 4.K.Kuppusamy Asari
- 5.K.Vadamalai Asari
- 6.R.Jothimani
- 7.T.Rasu Naidu @ Rajendran
- 8.A.Rajamani
- 9.Guruswamy Asari
- 10.M.Ramasamy Asari
- 11.B.Gnanamani
- 12.J.Parasakthi
- 13.M.Akilan
- 14.M.Murugan
- 15.K.Alagammal
- 16.S.Sakthi Murugan
- 17.S.Manoharan Asari
- 18.S.Nallendiran
- 19.S.Rajendiran
- 20.K.Sakthivel
- 21.S.Manikkam
- 22.A.Manikandan
- 23.P.Ravichandran
- 24.P.Manoharan
- 25.S.Velmurugan
- 26.S.Muthukrishnan
- 27.R.Muruganandham
- 28.P.Anguthai
- 29.S.Kumaresan
- 30.S.Kannappan
- 31S.Suresh
- 32.K.Sekar
- 33.K.Murugesan
- 34.K.Saravanan
- 35.K.Thulasiammal
- 36.R.R.Murugan
- 37.R.Rangarajan
- 38.K.Murugan
- 39.R.Ganesan
- 40.P.Kannusamy
- 41.P.Maniarasu
- 42.C.Kumaresan



44.M.Muthulakshmi
45.S.Parasuraman
46.G.Dheivakani
47.S.Murugeshwari
48.S.Vadamalraj
49.R.Murugeswari
50.M.Velupandian
51.C.Janakidurai
52.S.Arasamani
53.M.Kameswaran
54.R.Kuppaammal
55.Vanitha
56.Kannan
57.Muthammal
58.C.Nagaraj
59.N.Umanath
60.Angammal
61.Gurupakkiyam

... Petitioners

Vs .

- 1.The State of Tamil Nadu
Rep., by its Secretary to Government,
Department of Tamil Development and Culture
and Hindu Religious Endowment 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 Endowment 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, praying this Court To issue a writ of Mandamus, to direct the respondents to constitute the Fair rent committee for fixation of lease 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.II) Department, dated 28.03.2006 and in terms of section 34(A) of Hindu Religious and Charitable Endowment Act, 1959 and consequently forbear the respondents from in anyway demanding or



collecting exorbitant rent without fixing the quantum of lease rent in terms of the aforesaid provisions within the period that may be stipulated by this Court.

For Petitioners : Mr.C.Venkatesh Kumar
For M/s.Ajmal Associates
For R1 to R3 : Mr.P.Subbaraj
Special Government Pleader
For R4 : Mr.Roopan

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ORDER

Heard the learned counsel for the petitioner, the learned Special Government Pleader for the respondents 1 to 3 and the learned counsel for the fourth respondent.

2. The 61 petitioners in this writ petition are individuals, who are running small petty shops in the premises of Arulmigu Kambaraya Perumal Kovil and Kasi Viswanathar Kovil. In this writ petition, the petitioners sought for the relief as in W.P.(MD). Nos.156, 555 to 573 of 2022, filed by Cumbum Kottaiyaichutru Veedugal Kadaigal Katti Kudiyiruppor Nalla Sangam.

3. The case of the petitioners is that without fixing the fair rent in accordance with provisions under Section 34 A of the Hindu Religious and Charitable Endowments Act, 1959, the respondents proceeded to demand higher amount as fair rent from the petitioners and therefore the petitioners who did not file writ petition along with the said Cumbum Kottaiyaichutru Veedugal Kadaigal Katti Kudiyiruppor Nalla Sangam petition, filed this present writ petition.

4. Since the relief sought for in this writ petition is similar to the relief sought for by the said Cumbum Kottaiyaichutru Veedugal Kadaigal Katti Kudiyiruppor Nalla Sangam, I am inclined to dispose the writ petition in the light of the observations in the view of the above writ petition. The relevant portion from the order reads as under:-

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.1;

(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 தாளி) 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.

5. The writ petition stands disposed of with the above observation. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar ()

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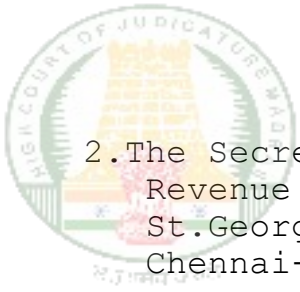
Sub Assistant Registrar(CS)

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To

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

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



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

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

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

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-9292[F] dated
01/03/2022)

+1 CC to M/s.C.GUHASEELARUPAN, Advocate (SR-9021[F] dated
28/02/2022)

+1 CC to M/s.SPL GP (SR-9187[F] dated 01/03/2022)

W.P(MD) .No.3709 of 2022
28.02.2022

MGJ(01.04.2022) 6P 8C