



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **30.03.2022**

CORAM:

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P. (MD) Nos.5080 to 5087 of 2022

and

W.M.P. (MD) Nos.4144, 4149, 4146, 4145, 4148, 4147, 4150 and 4151 of 2022

P.Palanisamy ... Petitioner In WP(MD) .5080 of 2022

Samuthravelu ... Petitioner in WP(MD). 5081 of 2022

M.Mariappan ... Petitioner in WP(MD). 5082 of 2022

P.Mariappan ... Petitioner in WP(MD). 5083 of 2022

M.Rajendran ... Petitioner in WP(MD). 5084 of 2022

K.Samuthravelu ... Petitioner in WP(MD). 5085 of 2022

S.Ganesan ... Petitioner in WP(MD). 5086 of 2022

S.Gopalakrishnan ... Petitioner in WP(MD). 5087 of 2022

/vs./

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

2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Tirunelveli.

3.The Executive Officer,
Mandai Vinayagar Temple,
Vasudevanallur, Sivagiri Taluk,
Tirunelveli District 627 758.

... Respondents
(In all WP's)

COMMON PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to the proceedings of the Impugned Order dated 24.02.2022 on the file of the 3rd respondent and quash the



(In all WP's)

For Petitioner : Mr.K.Jeyamohan

For R1 & R2 : Mr.P.T.Thiraviam
Government Advocate

For R3 : Mr.C.Guhaseelarupan

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COMMON ORDER

The petitioners have filed these writ petitions for a Certiorari to call for the records relating to the proceedings of the impugned order dated 24.02.2022 of the 3rd respondent and to quash the same.

2.All these petitioners are before this Court in CRP.(MD) Nos.447 to 454 of 2021. In the above Civil Revision Petitions, the petitioners have challenged the order passed by the 1st respondent therein/the Commissioner dated 05.09.2020 in confirming the order passed by the 3rd respondent therein dated 14.02.2019.

3.It is the specific case of the petitioners that the petitioners are the tenants of the 3rd respondent temple and that they were paying the rent of Rs.610/- per month and that without complying with the statutory safeguards and the decision of the Division Bench of this Court in the case of **Arulmigu Angala Parameswari and Kasivishwanathaswami Temple Adimanaiveal House Owners Association Vs. The State of Tamil Nadu, represented by its Secretary, Chennai and another** reported in **2009 (6) CTC 512**, the fair rent was enhanced from Rs.610/- to Rs.4,700/-. It is submitted that the respective petitioners had therefore preferred the appeals before the Appellate Commissioner under Section 34A (3) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (*herein after referred to as Act*) and that since the petitioners were unable to pre-deposit the amount, they approached this Court in W.P.(MD) Nos.552, 569, 566, 562, 602, 564, 570 and 599 of 2020. Pursuant to the order passed by this Court in the above writ petitions on 10.01.2020, the appeals filed by the respective petitioners under Section 34-A(3) of the Act were disposed of by the 1st respondent therein/the Commissioner on 05.09.2020.

4.The learned counsel for the petitioners submits that the appeals were dismissed and the petitioners are thus before this Court in CRP.(MD) Nos.447 to 454 of 2021 and that the petitioners have obtained an order of stay from this Court in the above Civil Revision Petitions on 03.03.2022.

5.The learned counsel for the petitioner further submits that in the teeth of interim order passed by this Court in CRP.(MD) Nos.447 to 454 of 2021, the impugned notices dated 24.02.2022



seeking to terminate the tenancy and treating the petitioners as encroachers cannot be countenanced. It is further submitted that pursuant to the orders passed in the above writ petitions on 10.01.2020, the petitioners have paid arrears for the period commencing from 2016 to the date of appeal and thereafter, the petitioners have been now paying only the old rent of Rs.610/-. The learned counsel for the petitioners further submits that the petitioners have also paid Rs.10,000/- during the pendency of the earlier proceedings in view of the force exerted by the 3rd respondent.

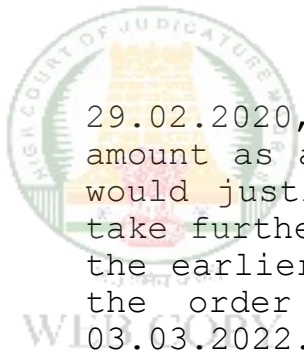
6.Opposing the prayer, the learned counsel for the official respondents submits that the petitioners are liable to pay the rent enhanced on 14.02.2019 for the period between 01.07.2016 and 30.06.2019. It is submitted that merely because the petitioners have filed appeals and that the appeals were rejected and thereafter, revisions are pending before this Court under Section 34A(5) of the Act, *ipso facto* would not mean that the petitioners can continue to pay the old rent of Rs.610/- instead of 4,700/- for the period commencing from 01.07.2016 to 30.06.2019. It is further submitted that a further revision was made on 29.02.2020 by enhancing the rent to Rs.5,500/- from Rs.4,700/-. It is submitted that there is no challenge to the aforesaid enhancement and therefore, the respondents have come forward to issue the impugned notices terminating the lease and by treating the petitioners as encroachers.

7.The learned counsel for the 3rd respondent submits that on the date when the interim order was secured by the petitioners in CRP. (MD) Nos.447 to 454 of 2021 on 03.03.2022, the respondent temple had already issued a notice dated 29.02.2020, whereby the fair rent was further enhanced to Rs.5,500/-. It is submitted that as long as the petitioners are in arrears that cannot be any concession. Even if the lease cannot be terminated in terms of Section 34B (2) of the Act, the petitioners are enjoying to pay the fair rent that has been fixed.

8.By way of rejoinder, the learned counsel for the petitioners submits that the above Civil Revision Petitions were directed to be listed for final hearing on 06.04.2022 and therefore, the impugned proceedings may be stayed.

9.I have considered the arguments advanced by the learned counsel for the petitioners, learned Government Advocate for the respondents 1 and 2 and the learned counsel for the 3rd respondent.

10.The petitioners are required to pay the fair rent that has been fixed on 14.02.2019 and 29.02.2020 for the ensuing period. The petitioners have not challenged the subsequent revision of the fair rent either before this Court or before any authority. As long as



29.02.2020, the 3rd respondent would be justified in demanding the amount as arrears and failure on the part of the petitioners to pay would justify the petitioners to be treated as encroachers and to take further steps under the provisions of the Act. The challenge to the earlier revision made on 14.02.2019 has also been rejected, but the order has been stayed by this Court by its order dated 03.03.2022. However, the subsequent revision made on 29.02.2020 for the period commencing from 01.07.2019 to 30.06.2022 has not been challenged. Therefore, to that extent the 3rd respondent is justified in demanding arrears of rent even if the amount demanded is to be ultimately held to be excessive.

11. Under these circumstances, I am inclined to disposed of these writ petitions by permitting the petitioners to challenge the subsequent enhancement dated 29.02.2020 within a period of 30 days from the date of receipt of a copy of this order subject to the petitioners paying the arrears of rent for the period between 01.07.2019 to 30.06.2022 before the 3rd respondent. It is needless to state that the aforesaid amount shall be treated as deposit and will be subject to final appropriation in the appeals to be filed by the petitioners.

12. This common order quashing the impugned order as far as the period from 01.07.2019 to 30.06.2022 is concerned shall stand automatically vacated, if the petitioners fail to file appeals within such time and on account of failure of the petitioners to clear the arrears as on date as mentioned in the impugned order. As far as the demand for the period between 01.07.2016 to 30.06.2019 is concerned, it will be subject to the final outcome of the orders to be passed by this Court in CRP.(MD) Nos.447 to 454 of 2021.

13. These writ petitions stand disposed of, in terms of the above observation. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

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/ /2022

Sub Assistant Registrar (CS)

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To

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



2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Tirunelveli.

+1 CC to M/s.C.GUHASEELARUPAN, Advocate (SR-15443[F] dated
30/03/2022)

+8 CC to M/s.K.JEYAMOHAN, Advocate (SR-15631 TO 15638[F] dated
31/03/2022)

+1 CC to M/s.SPL GP (SR-15694[F] dated 31/03/2022)

**W.P. (MD) Nos.5080 to 5087 of 2022
30.03.2022**

RD(12.04.2022) 5P 13C