



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **25.03.2022**

CORAM:

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

W.P. (MD) No.5222 of 2022

and

W.M.P. (MD) No.4241 of 2022

WEB COPY

N.Valavanthan

... Petitioner

/vs./

1.The Commissioner,

Hindu Religious & Charitable Endowments Board,
Nungambakkam,
Chennai.

2.The Joint Commissioner,

Hindu Religious & Charitable Endowments Board,
Sivagangai Region,
Sivagangai.

3.The Trustee,

Arulmighu Subramaniaswamy Temple,
Kamuthi cum the Executive Officer,
Hindu Religious & Charitable Endowments Board,
Arulmigu Meenakshi Chokkanathar Temple,
Chokkalingapuram,
Aruppukottai Taluk,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the Notice dated 27.01.2022 on the file of the Respondent No.3 herein issued to the petitioner in respect of Door Nos. 21, 22, 22/1, Agraharam Street, Kamuthi, Ramanathapuram District and quash the same.

For Petitioner : Mr.Y.Prakash

For R1 & R2 : Mr.P.Subbaraj
Special Government Pleader

For R3 : Mr.C.Guhaseelarupan

ORDER

The petitioner has filed this writ petition for a Certiorari to call for the notice dated 27.01.2022 issued to the petitioner by the 3rd respondent in respect of the property in D.Nos.21, 22 and 22/1 situated at Agraharam Street, Kamuthi, Ramanathapuram District and quash the same.



2. After hearing the learned counsel for the petitioner, learned Special Government Pleader for the respondents 1 and 2 and the learned counsel for the 3rd respondent, this writ petition is disposed of at the time of admission, considering the fact that the petitioner had earlier filed W.P.(MD) No.9234 of 2018, which came to be disposed of by an order dated 11.07.2018.

3. In the said writ petition, the petitioner had questioned the rent demanded by the 3rd respondent temple at Rs.9,370/-. The said writ petition was allowed and the case was remanded back to the respondents therein to refer the matter to the committee for fixing the rent afresh.

4. The 3rd respondent has now issued a revised demand notice dated 27.01.2022, whereby the petitioner has been informed that the petitioner was in arrears of Rs.5,20,580/- as on 30.11.2021 and that the petitioner should pay the aforesaid amount on or before 15.02.2022, failing which appropriate action will be taken.

5. The impugned communication of the 3rd respondent is challenged primarily on the ground that it has been made contrary to Section 34-A of the HR & CE Act, 1959 and in violation of the order of this Court in W.P.(MD) No.9234 of 2018 dated 11.07.2018.

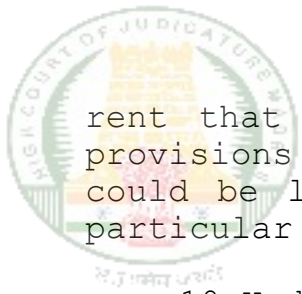
6. Opposing the prayer, the learned counsel for the 3rd respondent temple submits that after the order was passed by this Court in W.P.(MD) No.9234 of 2018 on 11.07.2018, there was a private negotiation between the 3rd respondent temple and the petitioner, wherein the petitioner has agreed to pay a sum of Rs.7,560/- towards monthly rent for the property.

7. The learned counsel for the 3rd respondent temple submits that the petitioner is in possession of 1008 sq.ft., of the house property and is paying paltry amount of Rs.110/- per month as rent. It is further submitted that the petitioner is not a tenant. It is submitted that the petitioner's father was the tenant and the petitioner has continued to occupy. It is therefore submitted that there is no justification in the present writ petition and it is therefore liable to be dismissed.

8. I have considered the arguments advanced by the learned counsel for the petitioner, learned Special Government Pleader for the official respondents and the learned counsel for the 3rd respondent temple.

9. The property, which has been in occupation of the petitioner, is a house property. The extent of the house property is reportedly 1008 sq.ft., which is evident from the letter dated 24.10.2020 of the petitioner's undertaking to pay a monthly rent of Rs.7,560/-.

<https://hccourts.gov.in/hccourts>



rent that has been arrived at may not be in accordance with the provisions of Section 34-A of the said Act. It could be higher or it could be lower also. The Act mandates fixation of fair rent in a particular manner in Section 34-A of the Act.

10. Under these circumstances, this writ petition is disposed of, by directing the 3rd respondent to comply with the order dated 11.07.2018 passed in W.P.(MD) No.9234 of 2018 and by referring the matter to the Fair Rent Fixation Committee to fix the fair rent. The said exercise shall be carried out by the 3rd respondent together with the Fair Rent Fixation Committee in the light of the provisions of Section 34-A of the Act and the decision of the Hon'ble Supreme 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**, within a period of 3 months from the date of receipt of a copy of this order. It is open for the petitioner to apply for regularization of tenancy before the 3rd respondent temple as the petitioner is not a tenant of the temple. The petitioner is also given liberty to pay any amount prior to fixation of the fair rent in order to mitigate the hardship that may be caused pursuant to the proposed fixation of fair rent. The petitioner cannot continue to be in possession of the property endlessly on payment of paltry rent of Rs.110/- per month in a prime location surrounding the temple. Liberty is given to the respondents also to initiate appropriate proceeding under Sections 78 and 79 of the Act, if the petitioner fails to pay the fair rent that may be fixed by the Fair Rent Fixation Committee. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

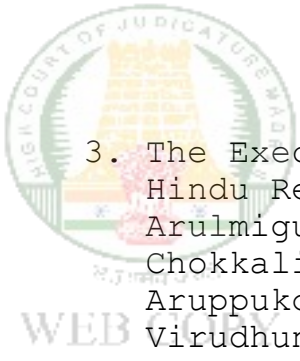
Sub Assistant Registrar (CS)

mm

To

1. The Commissioner,
Hindu Religious & Charitable Endowments Board,
Nungambakkam,
Chennai.

2. The Joint Commissioner,
Hindu Religious & Charitable Endowments Board,
Sivagangai Region, Sivagangai.



3. The Executive Officer,
Hindu Religious & Charitable Endowments Board,
Arulmigu Meenakshi Chokkanathar Temple,
Chokkalingapuram,
Aruppukottai Taluk,
Virudhunagar District.

+1 CC to M/s.C.GUHASEELARUPAN, Advocate (SR-14385[F] dated
25/03/2022)

+1 CC to M/s.SPL GP (SR-14932[F] dated 28/03/2022)

W.P. (MD) No. 5222 of 2022
25.03.2022

RK(08/04/2022) 4P 6C