



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **08.04.2022**

CORAM:

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

W.P. (MD) No.6051 of 2022

and

W.M.P. (MD) Nos.4716 and 4719 of 2022

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R.Pravin Kumar

... Petitioner

/vs./

1.The State of Tamil Nadu

represented 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 Tamilnadu,

represented 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.

4.The Joint Commissioner,

Hindu Religious and Charitable Endowment Department,
Trichy, Trichy District.

5.The Executive Officer,

Arulmigu Boologanathaswamy Thirukovil,
Keelaransalai,
Trichy 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 4th respondent vide his proceedings Se.Mu.Pa.Mu.No.1214/2021/E1 dated 08.10.2021 insofar as S.No.32 is concerned and consequential impugned order passed by the 5th respondent in his proceedings Nil dated 31.01.2022 and consequential impugned order passed by the 5th respondent in his proceedings Nil dated 21.02.2022 and quash the same as illegal and consequentially to direct the respondents to constitute the Fair Rent Committee for fixation of fair fair rent for the occupation of site alone (Floor Rent) strictly in terms of Section 34-A of Hindu Religious and Charitable Endowments Act, 1959 within the period that may be stipulated by this Court.



For Petitioner : Mr.S.Mohamed Suhail for
M/S.Ajmal Associates
For R1 to R4 : Mr.P.Subbaraj
Special Government Pleader
For R5 : Dr.Ramesh Mahadev

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ORDER

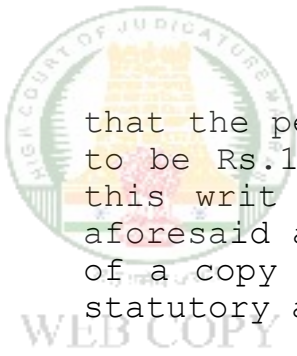
The petitioner has challenged the impugned communication of the 4th respondent dated 08.10.2021, insofar as the petitioner is concerned, bearing proceedings No.Se.Mu.Pa.Mu.No.1214/2021/E1, the consequential impugned order passed by the 5th respondent dated 31.01.2022, the consequential impugned order passed by the 5th respondent dated 21.02.2022 and to quash the same as illegal and to direct the respondents to constitute a Fair Rent Fixation Committee for fixation of fair fair rent for the occupation of site alone (Floor Rent) strictly in terms of Section 34-A of Hindu Religious and Charitable Endowments Act, 1959 (*herein after referred to as Act*).

2.The writ petition is opposed primarily on the ground that the rent has been fixed by the Fair Rent Fixation Committee and in accordance with the Government Orders in G.O.Ms.No.353 dated 04.06.1999 and G.O.Ms.No.456 dated 09.11.2007 and in accordance with the provisions of Section 34A of the Act.

3.The learned counsel for the petitioner submits that the rent has been fixed without constituting a Fair Rent Fixation Committee and that the increase in the rent for the period between 01.07.2016 to 30.06.2019 from Rs.10,225/- to 32,000/- was arbitrary and is therefore liable to be interfered. It is further submitted that the further increase in the rent for the period from 01.07.2019 to 31.01.2022 from Rs.32,000/- to Rs.36,800/- is also arbitrary for the same reason.

4.Opposing the prayer, the learned counsel for the official respondents and the learned counsel for the respondent temple submit that there is no merits in this writ petition, inasmuch as the rent has been fixed in terms of the aforesaid Government Orders and pursuant to the rent fixed by the Fair Rent Fixation Committee and that the 4th respondent has no choice but to follow the same. The fact of the matter is that the petitioner is still continuing to pay the rent, which was prevailing as on 30.06.2016. Almost 4½ years have lapsed. Since then there has been no increase in the rent that has been paid by the petitioner.

5.The issue as to whether the rent that has been fixed by the Fair Rent Fixation Committee was higher amount or whether it needs to be changed is to be decided by the Commissioner of HR & CE Department under Section 34A of the Act itself. Considering the fact



that the petitioner is in arrears of amount, which is now quantified to be Rs.14,58,160/- as on 31.03.2022, I am inclined to dispose of this writ petition by directing the petitioner to pay 50% of the aforesaid amount within a period of 30 days from the date of receipt of a copy of this order. The petitioner is given liberty to file a statutory appeal before the Appellate Commissioner within such time.

6.In case, the petitioner fails to file such appeal or deposit the aforesaid amount, the respondent temple is at liberty to initiate appropriate proceeding to evict the petitioner under Section 78 of the Act. In case the petitioner files such application within such time, the Appellate Commissioner shall entertain the appeal and dispose of the same within a period of 3 months from the date of such filing of the appeal. The petitioner shall start paying the enhanced rent of Rs.36,800/- from the ensuing month commencing from 01.05.2022. It is needless to state that the amount to be paid by the petitioner will be subject to final appropriation after such an appeal filed by the petitioner is disposed of by the Appellate Commissioner. In case there is any deficit, the 4th respondent is at liberty to initiate appropriate proceeding to recover the balance amount in accordance with law, in terms of the provisions of the said Act and in the light of the directions of this Court.

7.The writ petition stands disposed of, in terms of the above observations. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

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

2.The Secretary to Government,
Revenue Department,
St.George Fort,
Chennai 600 009.



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

4.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Trichy, Trichy District.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-17690[F] dated
11/04/2022)

+1 CC to M/s.SPL.GP (SR-17894[F] dated 11/04/2022)

W.P. (MD) No.6051 of 2022
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