



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. (MD) Nos.6194 to 6208 and 7337 of 2022

and

W.M.P. (MD) Nos.4792 to 4797, 4804, 4805, 4812, 4815, 4799, 4802, 4807, 4809, 4800, 4801, 4806, 4808, 4813, 4814, 4819, 4820, 4816, 4818, 4798, 4803, 4810, 4811, 4817, 4821 and 5562 of 2022

In W.P. (MD) No.6194 of 2022:-

M.Balasubramanian ... Petitioner(s) in WP(MD). 6194/2022

Musthafa ... Petitioner(s) in WP(MD). 6195/ 2022

Thangavel P ... Petitioner(s) in WP(MD). 6196/ 2022

Rani.M ... Petitioner(s) in WP(MD). 6197/ 2022

Rani.M ... Petitioner(s) in WP(MD). 6198/ 2022

Vasudevan.A ... Petitioner(s) in WP(MD). 6199/ 2022

Velmurugan B ... Petitioner(s) in WP(MD). 6200/ 2022

Shanmugasundaram T ... Petitioner(s) in WP(MD). 6201/ 2022

Balasubramanian.V ... Petitioner(s) in WP(MD). 6202/ 2022

Sekar M ... Petitioner(s) in WP(MD). 6203/ 2022

Anand @ Anandakumar ... Petitioner(s) in WP(MD). 6204/ 2022

Chella Kamatchi K ... Petitioner(s) in WP(MD). 6205/ 2022

Saroja ... Petitioner(s) in WP(MD). 6206/ 2022

Alagarsamy ... Petitioner(s) in WP(MD). 6207/ 2022



Leelavathy.A

... Petitioner(s) in WP(MD). 6208/ 2022

Krishnamurthy.S

... Petitioner(s) in WP(MD). 7337/ 2022

WEB COPY

/vs./

- 1.The Joint Commissioner,
Hindu Religious & Charitable Endowment Department,
Dindigul.
 - 2.The Assistant Commissioner,
Hindu Religious & Charitable Endowment Department,
Theni.
 - 3.The Fit Person/Thakkar,
Arulmigu Kamatchiamman Thirukovil,
Thenkarai,
Periyakulam,
Theni District.
- ... Respondents in all the petitions

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 cancellation of tenancy in Na.Ka.No.25/1431 dated 04.03.2022 issued by the 3rd respondent directing the petitioner to hand over the rented vacant site on or before 31.03.2022 quash the same and consequently direct the respondents herein to fix the ground rent of the petitioner's vacant site measuring 420.69 sq.ft., in TS No.2348/1 and 2, Melmangalam Road, Thenkarai, Periyakulam Taluk, Theni District furnishing memo of calculation for market value of the area.

Prayer in WP(MD). 6195/ 2022 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned cancellation of tenancy in Na.Ka.No.21-2/1431 dated 04.03.2022 issued by the 3rd respondent directing the petitioner to hand over the rented vacant site on or before 31.03.2022 quash the same and consequently direct the respondents herein to fix the ground rent of the petitioners vacant site measuring 660 sq.ft., in TS No.2348/1 and 2, Melmangalam Road, Thenkarai, Periyakulam Taluk, Theni District furnishing memo of calculation for market value of the area and pass such further or other orders as this Honble Court



Prayer in WP(MD). 6196/ 2022 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Writ Petition, filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned demand notice dated 27.12.2021 issued by 3rd respondent and the consequential impugned cancellation of tenancy in Na.Ka. No.16/1431 dated 04.03.2022 issued by 3rd respondent directing the peititioner to hand over the rented vacant site on or before 31.03.2022 quash the same and consequently direct the respondents herein to fix the ground rent of the petitioners vacant site measuring 866.25 sq.ft., in TS No.2348/1 and 2, Melmangalam Road, Thenkarai, Periyakulam Taluk, Theni District furnishing memo to calculation for market value of the area and pass such further or other orders as this Hon'ble Court.

Prayer in WP(MD). 6197/ 2022 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned notice of the 3rd respondent issued under Sec.78 of the HR and CE Act dated 27.12.2021, impugned demand notice Na.Ka.No.7-1/1431 dated 04.03.2022 issued by the 3rd respondent and the consequential impugned cancellation of tenancy in Na.Ka.No.7-1/1431 dated 04.03.2022 directing the petitioner to hand over the rented vacant site on or before 31.03.2022 , issued by 3rd respondent quash the same and consequently direct the respondents herein to fix the ground rent of the petitioners vacant site measuring 629 sq.ft., in TS No.2348/1 and 2, Melmangalam Road, Thenkarai, Periyakulam Taluk, Theni District furnishing memo to calculation for marker value of the area and pass such further or other orders as this Honble Court

Prayer in WP(MD). 6198/ 2022 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned demand notice Na.Ka.No.6/1431 dated 04.02.2022 issued by 3rd respondent and the consequential impugned cancellation of tenancy in Na.Ka.No.6/1431 dated 04.03.2022 issued by the 3rd respondent directing the petitioner to hand over the rented vacant site on or before 31.03.2022 quash the same and consequently direct the respondents herein to fix the ground rent of the petitioners vacant site measuring 416.53 sq.f in TS No.2348/1 and 2, Melmangalam Road, Thenkarai, Periyakulam Taluk, Theni District furnishing memo to calculation for marker value of the area and pass such further or other orders as this Honble Court



Prayer in WP(MD). 6199/ 2022 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned demand notice Na.Ka.No.22/1431 dated 07.02.2022 issued by the 3rd respondent and the consequential impugned cancellation of tenancy in Na.Ka.No.22/1431 dated 04.03.2022 issued by 3rd respondent directing the petitioner to hand over the rented vacant site on or before 31.03.2022 quash the same and consequently direct the respondents herein to fix the ground rent of the petitioners vacant site measuring 503.25 sq.ft., in TS No.2348/1 and 2, Melmangalam Road, Thenkarai, Periyakulam Taluk, Theni District furnishing memo of calculation for marker value of the area and pass such further or other orders as this Honble Court

Prayer in WP(MD). 6200/ 2022 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Writ Petition, filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Certiorarified Mandamus, Calling for the records relating to the impugned demand notice Na.Ka. No. 12/1431 dated 04.02.2022 issued by 3rd respondent and the consequential impugned cancellation of tenancy in Na.Ka. No.12/1431 dated 04.03.2022 issued by 3rd respondent directing the petitioner to hand over the rented vacant site on or before 31.03.2022 quash the same and consequently direct the respondents herein to fix the ground rent of the petitioners vacant site measuring 779.81 sq.ft., in TS No.2348/1 and 2, Melmangalam Road, Thenkarai, Periyakulam Taluk, Theni District, furnishing memo of calculation for marker value of the area and pass such further or other orders as this Honble Court

Prayer in WP(MD). 6201/ 2022 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned notice of the 3rd respondent issued under Sec. 78 of the HR and CE Act dated 27.12.2021 and impugned demand notice Na.Ka. 11/1431 dated 04.02.2022 issued by the 3rd respondent, quash the same and consequently direct the respondents herein to fix the ground rent of the petitioners vacant site measuring 510 sq.ft., in TS No.2348/1 and 2, Melmangalam Road, Thenkarai, Periyakulam Taluk, Theni District furnishing memo of calculation for market value of the area and pass such further or other orders as this Honble Court.



Prayer in WP(MD). 6202/ 2022 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned notice of the 3rd respondent issued under Sec.78 of the HR and CE Act dated 27.12.2021 and the consequential impugned cancellation of tenancy in Na.Ka.No.1/1431 dated 04.03.2022 directing the petitioner to hand over the rental premises on or before 31.03.2022, quash the same and consequently direct the respondents herein to fix the rent of the petitioners shop No.2/5 in TS No.2348/1 and 2, Melmangalam Road, Thenkarai, Periyakulam Taluk, Theni District furnishing memo of calculation for market value of the area and pass such further or other orders as this Honble Court

Prayer in WP(MD). 6203/ 2022 :

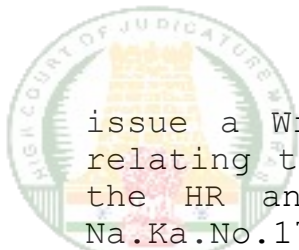
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned notice of the 3rd respondent issued under Sec. 78 of the HR and CE Act dated 27.12.2021, impugned demand notice Na.Ka. 26/1431 dated 04.02.2022 issued by the 3rd respondent and the consequential impugned cancellation of tenancy in Na.Ka.No. 26/1431 dated 04.03.2022 directing the petitioner to hand over the rented vacant site on or before 31.03.2022, issued by 3rd respondent quash the same and consequently direct the respondents herein to fix the ground rent of the petitioners vacant site measuring 1186.31 sq.ft., in TS No.2348/1 and 2, Melmangalam Road, Thenkarai, Periyakulam Taluk, Theni District furnishing memo of calculation for market value of the area and pass such further or other orders as this Honble Court

Prayer in WP(MD). 6204/ 2022 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned cancellation of tenancy in Na.Ka.No.23/1431 dated 04.03.2022 issued by the 3rd respondent, quash the same and consequently direct the respondents herein to fix the ground rent of the petitioners vacant site measuring 296.76 sq.ft., in TS No.2348/1 and 2, Melmangalam Road, Thenkarai, Periyakulam Taluk, Theni District furnishing memo of calculation for market value of the area and pass such further or other orders as this Honble Court

Prayer in WP(MD). 6205/ 2022 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Writ Petition, filed under Article 226 of the Constitution of India, praying this court to



issue a Writ of Certiorarified Mandamus, calling for the records relating to impugned notice of the 3rd respondent issued Sec.78 of the HR and CE Act dated 27.12.2021 and impugned demand notice Na.Ka.No.17/1431 dated 04.02.2022 issued by 3rd respondent and Impugned cancellation of tenancy in Na.Ka.No.17/1431 dated 04.03.2022 quash the same and consequently direct the respondents herein to fix the ground rent of the petitioners vacant site measuring 668.56 sq.ft., in TS No.2348/1 and 2, Melmangalam Road, Thenkarai, Periyakulam Taluk, Theni District, furnishing memo of calculation for market value of the are and pass such further or other orders as this Honble Court

Prayer in WP(MD). 6206/ 2022 :

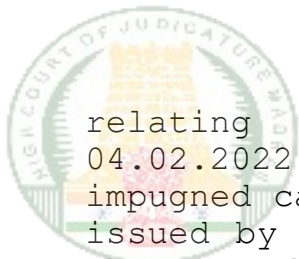
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned cancellation of tenancy in Na.Ka.No.3/1431 dated 04.03.2022 issued by the 3rd respondent directing the petitioner to hand over the rented vacant site on or before 31.03.2022 quash the same and consequently direct the respondents herein to fix the ground rent of the petitioners vacant site measuring 203.44 sq.ft., in TS No.2348/1 and 2, Melmangalam Road, Thenkarai, Periyakulam Taluk, Theni District furnishing memo of calculation for market value of the area and pass such further or other orders as this Honble Court.

Prayer in WP(MD). 6207/ 2022 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned notice of the 3rd respondent issued under Sec.78 of the HR and CE Act dated 27.12.2021, impugned demand notice in Na.Ka.No.18/1431 dated 04.02.2022 issued by the 3rd respondent and the consequential Impugned cancellation of tenancy in Na.Ka.No.18/1431 dated 04.03.2022 directing the petitioner to hand over the rented vacant site on or before 31.03.2022, issued by 3rd respondent quash the same and consequently direct the respondents herein to fix the ground rent of the petitioners vacant site measuring 752.5 sq.ft., in TS No.2348/1 and 2, Melmangalam Road, Thenkarai, Periyakulam Taluk, Theni District furnishing memo of calculation for market value of the area and pass such further or other orders as this Honble Court.

Prayer in WP(MD). 6208/ 2022 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records



relating to the impugned demand notice Na.Ka.No.4/1431 dated 04.02.2022 issued by the 3rd respondent and the consequential impugned cancellation of tenancy in Na.Ka.No.4/1431 dated 04.03.2022 issued by the 3rd respondent directing the petitioner to hand over the rented vacant site on or before 31.03.2022 quash the same and consequently direct the respondents herein to fix the ground rent of the petitioners vacant site measuring 232 sq.ft., in TS No.2348/1 and 2, Melmangalam Road, Thenkarai, Periyakulam Taluk, Theni District furnishing memo of calculation for market value of the area and pass such further or other orders as this Honble Court.

Prayer in WP(MD). 7337/ 2022 :

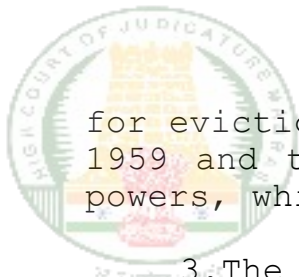
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Writ Petition, filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned notice of the 3rd respondent issued under Sec.78 of the HR and CE Act dated 27.12.2021 and impugned demand notice Na.Ka.No. 20/1431 dated 04.02.2022 issued by 3rd respondent, quash the same and consequently direct the respondents herein to fix the ground rent of the petitioners vacant site measuring 1530 sq.ft., in TS No. 2348/1 and 2, Melmangalam Road, Thenkarai, Periyakulam Taluk, Theni District, furnishing memo of calculation for market value of the area and pass such other further orders as this Honble Court

For Petitioner	: Mr.K.Appadurai in all the petitions
For R1 & R2	: Mr.P.Subbaraj Special Government Pleader in all the petitions
For R3	: Mr.G.Mathavan in all the petitions

COMMON ORDER

After hearing the learned counsel for the petitioners, learned counsel for the official respondents and the learned counsel for the private respondent, these writ petitions are disposed of.

2.In these writ petitions, the petitioners have challenged the impugned communications asking the petitioners to pay arrears of rent for the period from 01.07.2016 to 30.06.2021 and thereafter. It is the specific case of the petitioners that the fair rent has been enhanced multi fold times and that the procedural safeguards under Section 34A of the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959 r/w 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 have not been followed and therefore, the impugned demand has to go. That apart, it is submitted that only the 1st respondents is competent to pass an order



for eviction of the petitioners under Section 78 of the HR & CE Act, 1959 and that the 3rd respondent cannot arrogate upon himself such powers, which is not vested with him.

3.The learned counsel for the petitioners has relied upon a recent circular of the Commissioner of HR & CE Department, dated 10.03.2022 bearing Na.Ka.No.4551/2022/M2. It is submitted that detailed guidelines have been given with a direction to the respondents to redetermine the fair rent and therefore, the same should be followed.

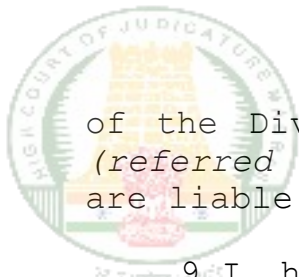
4.The learned counsel for the petitioners further submits that at the time of admission of these writ petitions, an interim stay was granted subject to the petitioners paying 50% of the disputed arrears of rent. It is submitted that the petitioners are unable to rattle the aforesaid amount as they are all petty shop holders, who are in possession of small portions of the temple land, on which they had put up a temporary construction and are doing small business. It is further submitted that the petitioners are incapable of paying the huge amount, which has been demanded in the impugned notices.

5.The learned counsel for the petitioners at this stage submits that after 2018, no further revision has been made to the fair rent, though the petitioners are required to pay only 15% additionally in the absence of any further determination. It is further submitted that the petitioners are now willing to pay the enhanced rent.

6.Opposing the prayer, the learned counsel for the official respondents as also the learned counsel for the respondent temple submit that the writ petitions are premature and are liable to be dismissed. It is submitted that the writ petitioners in W.P.(MD) Nos.6194 to 6199, 6204 and 6208 of 2022 are encroachers, who have got possession of the temple property from the original tenants without the authority of the temple.

7.That apart, it is submitted that the impugned proceeding is merely a notice and a precursor to a further proceeding to be initiated under Section 78 of the HR & CE Act, 1959. The learned counsel for the respondents has also filed a copy of the representation of the petitioners sent to the 1st respondent/the Joint Commissioner, wherein they have themselves acknowledged having received the copy of the communication dated 30.12.2018, wherein the fixation of fair rent for the aforesaid period commencing from 1st July, 2016 was admitted to have been received by the petitioners.

8.It is submitted that they have merely given a representation stating that the aforesaid rent was not acceptable and payable by them. It is therefore submitted that there is no violation of the statutory safeguards under Section 34A of the Act and the decision



of the Division Bench of this Court in *Angala Parameswari's* case (referred *supra*). It is therefore submitted that the writ petitions are liable to be dismissed.

9.I have considered the arguments advanced by the learned counsel for the petitioners, learned counsel for the official respondents and the learned counsel for the private respondent.

10.The petitioners in W.P.(MD) Nos.6194 to 6199, 6204 and 6208 of 2022 *prima facie* appears to be encroachers as even otherwise they are not the recognized tenants of the respondent temple. As far as the other tenants are concerned, they have not challenged the decision of the Fair Rent Fixation Committee fixing the fair rent as early as 30.12.2018. All the petitioners including those, who are allegedly not the recognized tenants of the respondent temple, have been squatting on the property of the temple and have refused to pay the enhanced rent. If it is the case of the petitioners that they are unable to pay the arrears of the rent, they can ask for suitable concession in time for paying arrears of rent. In the absence of a valid challenge to the fair rent fixed by the Fair Rent Fixation Committee, which was communicated to the petitioners on 30.12.2018 as it evident from their representations to the Joint Commissioner, copies of which have been filed before this Court, I am unable to accede to their request.

11.The petitioners therefore are directed to reply to the aforesaid proceedings, failing which the temple authorities are at liberty to initiate appropriate proceedings under Section 78 of the HR & CE Act, 1959 before the Joint Commissioner for evicting the petitioners. It is needless to state that before the petitioners are evicted, the 3rd respondent shall follow due procedure of law as it contemplated under Section 78 of the said Act. The respondents are at liberty to consider the request of the petitioners for liquidating the arrears in installments, if the petitioners so desire. Pending disposal of the aforesaid proceedings under Section 78 of the HR & CE Act, 1959, the petitioners shall start to pay the enhanced rent that was fixed on 30.12.2018.

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

Sd/-

Assistant Registrar (RTI)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

mm

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



To

1.The Joint Commissioner,
Hindu Religious & Charitable Endowment Department,
Dindigul.

2.The Assistant Commissioner,
Hindu Religious & Charitable Endowment Department,
Theni.

+2CC to M/s.Appadurai, SR.No. 22296, dated 28/04/2022

+1CC to M/s.SPL GP, SR.No. 23242

W.P.(MD) Nos.6194 to 6208 and 7337 of 2022
28.04.2022

SB(CO)

KB(12.05.2022) 10P 6C