



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **11.04.2022**

CORAM:

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

W.P. (MD) No.6683 of 2022

and

W.M.P. (MD) No.5172 of 2022

WEB COPY

V.Mariyappan

... Petitioner

/vs./

1.The Commissioner,

Hindu Religious and Charitable Endowment Department,
Chennai 600 034.

2.The Joint Commissioner,

Hindu Religious and Charitable Endowment Department,
Sivagangai District.

3.The Executive Officer,

Arulmigu Muthalamman Thirukoil,
Karaikudi,
Sivagangai 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 demand notice dated 08.02.2022 and the consequential impugned order dated 23.02.2022, cancelling the lease of the petitioner for vacant site measuring 1380 sq.ft., comprised in TS No.420/12, Ward No.12, Block No.5, Karaikudi Taluk and Town, Sivagangai District, both purported to have been issued by the 3rd respondent under Section 78 of the Hindu Religious and Charitable Endowment Act, quash the same and consequently direct the respondents herein to fix ground rent for the vacant site belonging to the 3rd respondent temple furnishing memo of calculation for market value of the area as per the circular issued by the 1st respondent in Na.Ka.No.4551/2022/M2 dated 10.03.2022.

For Petitioner	: Mr.S.Siva Thilakar
For R1 & R2	: Mr.P.Subbaraj Special Government Pleader
For R3	: Mr.C.Guhaseelarupan

ORDER

The petitioner has filed this writ petition for a Certiorarified Mandamus to call for the records relating to the impugned demand notice dated 08.02.2022 and the consequential impugned order dated 23.02.2022, cancelling the lease of the petitioner for vacant site, measuring an extent of 1380 sq.ft., in TS No.420/12, Ward No.12, Block No.5, Karaikudi Taluk and Town,



Sivagangai District, both purported to have been issued by the 3rd respondent under Section 78 of the Hindu Religious and Charitable Endowment Act, quash the same and to direct the respondents to fix the ground rent for the vacant site belonging to the 3rd respondent temple furnishing memo of calculation for market value of the area as per the circular issued by the 1st respondent in Na.Ka.No.4551/2022/M2 dated 10.03.2022.

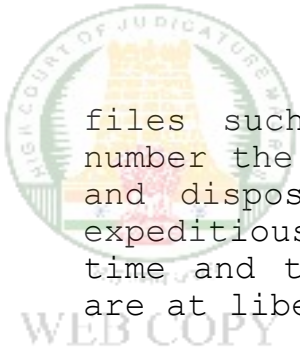
2.The petitioner is a sub-tenant of one Vijayaraghavan. The petitioner claims to be in possession of the property since 2009 and that he was regularly remitting the rent to the 3rd respondent temple that was fixed at the time when the petitioner took the property on rent. It is submitted that all of a sudden the 3rd respondent issued a notice under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959 (*herein after referred to as Act*) on 08.02.2022 and called upon the petitioner to pay the arrears of Rs.5,40,599/- for the period between 01.07.2017 and 31.12.2021. Thereafter, the 3rd respondent has passed an order dated 23.02.2022 ordering eviction of the petitioner.

3.The learned counsel for the petitioner submits that after the impugned order was passed, the petitioner has also remitted a sum of Rs.60,000/-. It is submitted that the impugned order is contrary to the circular dated 10.03.2022 of the 1st respondent/the Commissioner, in terms of which procedure under Section 34A of the Act has to be followed.

4.Opposing the prayer, the learned counsel for the official respondents submits that the petitioner is a sub-tenant and therefore, the impugned notice that was addressed to the tenant may not have been received by the petitioner. It is submitted that the rent that has been demanded at Rs.11,000/- was based on the fair rent that was fixed by the Fair Rent Fixation Committee and therefore, there is no merits in the present writ petition.

5.I have considered the arguments advanced by the learned counsel for the petitioner, learned Special Government Pleader for the respondents 1 and 2 and the learned counsel for the 3rd respondent.

6.The petitioner has an alternate remedy under Section 38A of the Act and may approach the Commissioner subject to the petitioner paying 50% of the arrears within a period of 60 days from the date of receipt of a copy of this order in two equal monthly installments. The amount to be paid by the petitioner shall be treated as advance and will be subject to the final outcome of the orders to be passed in the appeal to be filed by the petitioner. The petitioner is directed to pay the enhanced rent of Rs.11,000/- for the ensuing period, which amount shall also be subject to final appropriation and subject to final outcome of the proposed appeal to be filed by the petitioner. It is made clear that if the petitioner



files such an appeal in time, the Appellate Commissioner shall number the appeal after the petitioner's paying the 2nd installment, and dispose of the same on merits and in accordance with law, expeditiously. If the petitioner fails to pay 50% of the arrears in time and to file such an appeal within such time, the respondents are at liberty to initiate proceedings under Section 79 of the Act.

7.The writ petition stands disposed of, in terms of the above observation. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

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/ /2022

Sub Assistant Registrar(CS)

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To

1.The Commissioner,
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2.The Joint Commissioner,
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Sivagangai District.

3.The Executive Officer,
Arulmigu Muthalamman Thirukoil,
Karaikudi,
Sivagangai District.

+1 CC to M/s.DR.C. GUNASEELARUPAN, Advocate (SR-17817[F] dated 11/04/2022)

+1 CC to M/s.S. SIVATHILAKAR, Advocate (SR-18034[F] dated 12/04/2022)

+1 CC to M/s.SPL.GP. (SR-18129[F] dated 12/04/2022)

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MGJ(22.04.2022) 3P 7C