



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.05.2022

CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

AND

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.A. (MD) No.473 of 2022

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... Appellant / Petitioner

Vs.

1. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Madurai.
2. The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Madurai.
3. The Chairman of Trustees and Thakkar,
Arulmigu Puttu Urchava Vagayara Kattalai,
Puttuthoppu,
Madurai - 16.

... Respondents / Respondents

Prayer: Writ appeal filed under Clause 15 of Letters Patent, against the order of this Court made in W.P.(MD)No.5745 of 2022, dated 31.03.2022.

Prayer in WP(MD). 5745/ 2022 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the 3rd respondent to follow the 15 percent of enhancement of rent once in three years as followed from the year 01.07.2001 onwards and to follow the procedure of enhancement of rent to the petitioner as per law and guidelines laid by the 1st respondent in fixation of rent and GOs and not to evict the petitioner from the 1.residential premises 1353 sq.ft. at 12/23c/2 Chekkadi Street, Puttuthoppu, Madurai 2.Commercial premises 6242 sq.ft. 17-4, Chekkadi Street, Puttuthoppu Madurai 3. Commercial 1100 sq.ft 17-c, Puttuthoppu Main Road, Chekkadi Street, Madurai properties

For Appellant : Mr.S.Satheesh Kumar,
for Mr.M.O.Thevankumar

For R-1 & R-2 : Mr.S.R.A.Ramachandran
Additional Government Pleader

For R-3 : Mr.M.Saravanan



J U D G M E N T

[JUDGMENT of the Court was made by R.VIJAYAKUMAR, J.,]

Heard the learned counsel appearing for the appellant and the learned Additional Government Pleader appearing for respondents 1 and 2 and the learned counsel appearing for the third respondent.

2. The present intra-court appeal has been filed challenging the order of the learned Single Judge passed in W.P.(MD)No.5745 of 2022. The writ petitioner is the appellant.

3. The writ petitioner has approached this Court with a prayer for Writ of Mandamus directing the third respondent Temple to follow 15% enhancement of rent once in three years and not to evict him from the disputed premises. Admittedly, the petitioner has suffered an order dated 23.06.2018 at the hands of the third respondent, wherein fair rent has been fixed with effect from 01.07.2016 at the rate of Rs.45,570/- (Rupees Forty Five Thousand Five Hundred and Seventy only). However, the said order was not challenged at any point of time by the writ petitioner. In the year 2022, the writ petitioner has come out with the present prayer.

4. The learned Single Judge, vide Order dated 31.03.2022, has directed the writ petitioner to deposit the arrears of Rs.24,13,718/- (Rupees Twenty four lakhs, thirteen thousand, seven hundred and eighteen only) as on 20.09.2021 and thereafter, approach the Commissioner of Hindu Religious and Charitable Endowments Department for filing statutory appeal under Section 34(A) of the Hindu Religious and Charitable Endowments Act (hereinafter referred to as 'the Act'). Aggrieved over the same, the present Writ Appeal has been filed.

5. Having suffered an order in the year 2018 with regard to fixation of rent, the petitioner has not even chosen to challenge the same before the Commissioner of Hindu Religious and Charitable Endowments Department as contemplated under Section 34(A) of the Act. He has come out with the prayer for mandamus not to collect any rent and follow the enhancement of 15% per month.

6. Hence, we do not find any illegality or perversity in the order of the learned Single Judge directing the writ petitioner to approach the Commissioner of Hindu Religious and Charitable Endowments Department for filing statutory appeal under Section 34 (A) of the Act. Admittedly, the petitioner has to deposit the said arrears before the Commissioner before filing statutory appeal under Section 34(A) of the Act. In view of the proviso to sub Section (3) of Section 34 (A) of the said Act and in view of the statutory mandate for depositing the said amount, we are not inclined to interfere with the order passed by the learned Single Judge.



7. In the result, this Writ Appeal is dismissed. No costs.

Sd/-

Assistant Registrar/
Vacation Officer

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// True Copy //

/ /2022
Sub Assistant Registrar(CS)

CM / PMU

To

1. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Madurai.

2. The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Madurai.

+1 CC to M/s.M. THIRUNAVUKKARASU, Advocate (SR-24157[F] dated
26/05/2022)

+1 CC to M/s.M. SARAVANAN, Advocate (SR-24189[F] dated 27/05/2022)

+1 CC to M/s.SPL.GP (SR-24181[F] dated 27/05/2022)

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MGJ(02.06.2022) 3P 6C