



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.02.2022

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P(MD) .No.10339 of 2019

and

W.M.P(MD) .Nos.7967 and 22489 of 2019

J.Sridhar

... Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable
Endowment Department, Nungambakkam, Chennai.

2.The Executive Officer,
Arulmigu Aathinathar Alwar Thirukovil,
Alwar Thirunageri,
Thoothukudi District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the entire records of impugned proceedings issued by the second respondent all dated 31.12.2018 issued in respect of the petitioner's Shop Nos.32/5, 37/10, 38/11 and Shop No.39/12 situated at Salai Street, Alwar Thirunageri, Eral (Taluk), Thoothukudi District and quash the same as illegal and consequently direct the second respondent to re-fix rent for the petitioner's shops.

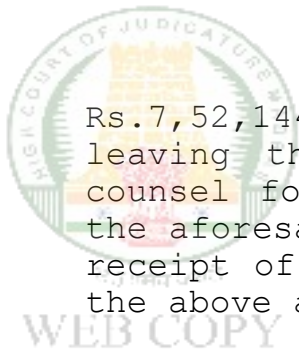
For Petitioner	: Mr.PM.Vishnuvarthanan
For R1	: Mr.P.Subbaraj
	Special Government Pleader
For R2	: Mr.M.Muthugeethayan

ORDER

The petitioner has challenged the impugned order, dated 31.12.2018 which seeks to recover the arrears of rent for the petitioner for the period between 1.11.2001 and 31.12.2018. Approximately, the petitioner was in arrears for 206 months in respect of four different shops on the date of filing of the writ petition on 25.04.2019. According to the petitioner, the petitioner was in total arrear of Rs.4,93,744/- as on 25.04.2019.

2. Both the learned counsel for the petitioner and respondents confirm that the arrears, as on date, may be approximately

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Rs.7,52,144 and that the petitioner has paid a sum of Rs.6,02,400 leaving the balance amount of only Rs.1,49,740/-. The learned counsel for the petitioner submits that the petitioner will remit the aforesaid amount within a period of thirty days from the date of receipt of copy of this order. The offer of the petitioner to remit the above amount stands recorded.

3. The learned counsel for the respondents, however, submits that the petitioner's father was a original lessee/tenant. It is submitted that after his demise, neither the petitioner nor any person as a sub-tenant can be allowed to continue on the leased property. It is submitted that Shop No.32/5 has been sublet to one Kajamohaideen and Balakrishnan while Shop No.39/5 has been sublet to one Sivasankari which is impermissible. It is submitted that all these persons are encroachers of the property.

4. The learned counsel for the respondents places reliance on the decision of the Court, dated 22.12.2022 in W.P.No.27180 of 2018 in **K.Mohan Vs Secretary and others.**

5. I have heard the learned counsel for the petitioner and the learned counsel for the respondents.

6. Since the petitioner is willing to deposit the arrears within a period of thirty days from the date of receipt of copy of this order, the respondents shall keep all coercive proceedings in abeyance subject to the petitioner, paying the aforesaid amount within the above period. As far as the subletting and change of the name of the lessee is concerned, it is open for the petitioner to approach the second respondent for regularising the lease. Any proceeding to remove the petitioner shall be after due compliance of Section 34 and Section 78 of the HR&CE Act, the respondents shall comply with the due provisions of the HR&CE Act. Till the petitioner is in possession of the property much directly or indirectly apart from the aforesaid amount of Rs.1,49,740, the petitioner shall continue to pay the lease amount for use and occupation of the shops.

7. The Writ Petition stands disposed of with the above observations. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (T&P)

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/ /2022

Sub Assistant Registrar



To

1.The Commissioner,
Hindu Religious and Charitable
Endowment Department,
Nungambakkam,
Chennai.

2.The Executive Officer,
Arulmigu Aathinathar Alwar Thirukovil,
Alwar Thirunageri,
Thoothukudi District.

+1 CC to M/s.P.M.VISHNUVARTHANAN, Advocate (SR-7910[F] dated
22/02/2022)

+1 CC to M/s.M.MUTHU GEETHAYAN, Advocate (SR-7341[F] dated
21/02/2022)

W.P (MD) .No.10339 of 2019
18.02.2022

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