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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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|--------------|------------|
| RESERVED ON  | 28.02.2022 |
| DELIVERED ON | 31.03.2022 |

**CORAM :**

**THE HONOURABLE MRS.JUSTICE S.ANANTHI**

**CR.P. (MD) Nos.1559 to 1563 & 1955 to 1957 of 2021**

**and**

**C.M.P. (MD) Nos.8551 to 8554, 8556 ,**  
**10541, 10542 and 10550 of 2021**

**C.R.P. (MD) Nos.1559 to 1563 of 2021**

A.Ananth ...Petitioner/Appellant/Tenant, in  
C.R.P. (MD) No.1559 of 2021

R.Ramesh ...Petitioner/Appellant/Tenant, in  
C.R.P. (MD) No.1560 of 2021

A.Jeyabalan ...Petitioner/Appellant/Tenant, in  
C.R.P. (MD) Nos.1561 & 1562 of 2021

M.M.Vishal ...Petitioner/Appellant/Tenant, in  
C.R.P. (MD) No.1563 of 2021

Prabulal Ladha Solanki ...Petitioner/Appellant/Tenant, in  
C.R.P. (MD) Nos.1955 to 1957 of 2021

**Vs.**

1.The Commissioner,  
HR & CE, Administration Department,  
Mahatma Gandhi Road,  
Nungambakkam,  
Chennai - 600 034. ...Respondent/---/---, in all CRPs.

2.The Assistant Commissioner/Executive Officer,  
Arulmigu Thayumanasamy Kovil Devasthanam,  
Rockfort,  
Tiruchirappalli. ...Respondent/Respondent/Landlord  
in all CRPs.

**PRAYER:** Civil Revision Petition under Article 227 of the  
Constitution of India read with Section 34A(5) of the HR & CE Act  
1959, to set aside the order, dated 29.04.2021 made in R.C.No.6382,  
6381, 6384, 6379, 6380, 6388 of 2021/D2 passed by the

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



Commissioner, HR & CE, Admin. Department, Chennai filed against the notice dated 21.08.2020 made in Na.Ka.No.918/2019/A5 passed by the Assistant Commissioner/Executive officer, Arulmigu Thayumanasamy Kovil Devasthanam, Trichy.

**In all CRPs.**

For Petitioner : M/s.V.Raghavachari  
S.Ramesh

For R-1 : No Appearance  
For R-2 : Mr.M.Saravanan

**COMMON ORDER**

These Civil Revision Petitions have been filed to set aside the order, dated 29.04.2021 in R.C.No.6382, 6381, 6394, 6395, 6384, 6379, 6380, 6388 of 2021/D2 passed by the Commissioner, HR & CE, Administration Department, Chennai, against the notice, dated 21.08.2020 made in Na.Ka.No.918/2019/A5 passed by the Assistant Commissioner/Executive officer, Arulmigu Thayumanasamy Kovil Devasthanam, Trichy.

2.The revision petitioners/appellants/tenants herein, have filed an appeal before the HR & CE Commissioner against the order of fixing fair rent on the ground that they have not given notice before fixing fair rent in R.C.Nos.6379 to 6396, 7314, 14680 and 14861 of 2021.

3.The Commissioner/1<sup>st</sup> respondent has passed an order, dated 29.04.2021 and directed the revision petitioners to deposit arrears of rent in the existing rate and also they should file an undertaking affidavit to continue to pay the revised rent till the disposal of appeal. Then only admissibility of appeal can be decided.

4.Heard on either side. Perused the material documents available on record.

5.These Civil Revision Petitions have filed on the ground that the Commissioner/1<sup>st</sup> respondent ought to have seen that the committee under the HR & CE Act, had deliberately and miserably failed to accord notice and personal hearing to the petitioners to put forth their objection before passing an order as to fair rent for the tenanted premises and the denial of such notice and personal hearing is fatal to the proceeding and the same would vitiate the entire proceedings of the respondents much less the order passed by the Commissioner/1<sup>st</sup> respondent. The Commissioner/1<sup>st</sup> respondent ought to have seen that the fair rent fixed for the petitioner's tenanted premise is highly exorbitant, arbitrary and non-reflective of the prevalent market rent in the local vicinity for the similar



premises like the petitioners and as such the order passed by the Commissioner/1<sup>st</sup> respondent is liable to be set aside.

6. The ingredients of Section **34-A (3) of HR & CE Act**, is extracted hereunder:

**" 34(A) Fixation of Less rent:**

3. Any person aggrieved by an order passed under sub-section (2), may, within a period of third days from the date of receipt of such order, appeal to the Commissioner, in such form and in such manner, as may be prescribed."

7. In the proviso to Section **34(A) of HR & CE Act**, "no appeal or revision shall be entertained under sub-section (3) or sub-section (5), as the case may be, unless it is accompanied by satisfactory proof of deposit of the lease rent so fixed or refixed, in the account of the religious institution concerned and such amount shall be adjusted towards the lease amount payable by the lessee as per the order passed in the appeal or revision, as the case may be".

8. The relevant portion of the Judgment reported in **2009 (6) CTC 512 (DB)** in the case of **Arulmigu Angala Parameswari and Kasivishwanathaswami Temple Adimanaiveal House Owners Association V. State of Tamil Nadu**, is extracted hereunder:

"An appeal is a creature of statute and the authorities under the HR & CE Act are entitled to lay down conditions subject to which appeal will be entertained. Hence, the imposing of a condition that predeposit of amount is a valid condition."

9. Till raising objection the petitioners have to deposit existing rent i.e., is fair rent fixed by the Authority - Pre deposit. After filing an appeal the Commissioner cannot insist them to pay fair rent continuously as fixed by the authority till the disposal of appeal.

10. So, the undertaking portion is not valid. Only after deciding the appeal, fair rent may be collected from the date of appeal.



11. Finally, these Civil Revision Petitions are partly allowed. The revision petitioners/tenants are directed to deposit arrears of fair rent fixed by the authority till the filing of an appeal. No Costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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**Note:** In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

1. The Commissioner,  
HR & CE, Administration Department,  
Mahatma Gandhi Road,  
Nungambakkam,  
Chennai - 600 034.
2. The Assistant Commissioner/Executive Officer,  
Arulmigu Thayumanasamy Kovil Devasthanam,  
Rockfort,  
Tiruchirappalli.

+1 CC to M/s.V.RAGHAVACHARI, Advocate ( SR-15841[F] dated 31/03/2022 )

+1 CC to M/s.M.SARAVANAN, Advocate ( SR-16223[F] dated 01/04/2022 )

**Common Order made in  
C.R.P. (MD) Nos. 1559 to 1563 &  
1955 to 1957 of 2021  
31.03.2022**

ck (CO)

TR(11.04.2022) 4P 5C