



W.P.(MD)No.19054 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 15.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P.(MD)No.19054 of 2020

and

WMP(MD)No.15961 of 2020

A.V.Giridharan

.. Petitioner

Vs

**1. The Commissioner,
Hindu Religious and Charitable Endowments Department,
Uthamar Gandhi Salai,
Nungambakkam,
Chennai-600 034.**

**2.The Joint Commissioner,
Hindu Religious and Charitable endowments Department,
Madurai.**

**3.The Executive Officer,
Arulmigu Kalyanasundareshwarar Thirukkivil,
Avaniyapuram,
Madurai-122.**

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to reduce the house rent with a reasonable to the petitioner and permit him to reside in his house situated at 16/47, Ramachandhirapuram 1st street, Therkuveli



W.P.(MD)No.19054 of 2022

Veethi, madurai, on the basis of the petitioner's representation dated 19.11.2020 forthwith.

For Petitioner : Mr.S.T.Sasidharan Tamilnadu
For R1 & R2 : Mr. M.Lingadurai
Special Governmen Pleader
For R3 : Mr.S.Manohar

ORDER

This petition has been filed to direct the respondents to reduce the house rent with a reasonable to the petitioner and permit him to reside in his house situated at 16/47, Ramachandhirapuram 1st street, Therkuveli Veethi, madurai, on the basis of the petitioner's representation dated 19.11.2020 forthwith.

2. The parents of the petitioner were tenant under the third respondent, they regularly paid the rent, tax and other charges to the authorities without fail. On 21.09.2015, the mother of the petitioner passed away. Petitioner from birth he is residing in the same house. He is a unmarried man, not having any job. Without any source of income,



W.P.(MD)No.19054 of 2022

WEB COPY

with the support of his brothers and sisters, he could restore the house, since the building was in dilapidated condition. The petitioner made a number of renovation works in that house and made it fit to live.

3.This being so, on 02.08.2016, the second respondent without issuing any notice to the petitioner increased the rent from Rs.704 to Rs.4,000/-, which is seven times higher than earlier rent. Hence, the petitioner gave a representation to the Minister of Hindu Religious and Charitable Endowments Departments, Chennai, seeking leniency. On 04.08.2016, the third respondent sent a communication to the petitioner. Later, entered into a rental agreement from 02.08.2016. On 04.03.2017, the third respondent sent a letter to the petitioner, informing that the petitioner has to pay 7 months rent due amount of Rs.34,720/-, otherwise, he should vacate from the rental house. The third respondent again, sent a communication to the petitioner calling for the rental dues. On 26.05.2018, the petitioner made a representation to reduce the rent from Rs.4960/-. But, the third respondent not considered the petitioner's representation and a notice, dated 06.07.2018 affixed, informing that the rental agreement between the mother of the petitioner and the temple



W.P.(MD)No.19054 of 2022

authorities cancelled and action to be taken against the petitioner under Section 78, 79 of the HR&CE Act. The petitioner sent representation to the first respondent, who forwarded the same to the second respondent for further course of action. Thereafter, nothing happened.

4.The petitioner is residing in the above said address, for more than 50 years. The petitioner paid a sum of Rs.20,000/- to the third respondent for arrears of rent. This amount not credited to the petitioner's account. The petitioner sent a representation, on 09.11.2020 seeking reduction of rent and also permit the petitioner to stay in the very same house considering the petitioner's pathetic condition. The petitioner when appeared before the third respondent, he pressurized the petitioner to sign in some blank papers as though petitioner is willing to vacate the house within a period of two weeks. Having no other option, the petitioner filed this petition seeking direction to direct the authorities to consider the petitioner's representation, dated 19.11.2020. In support of his contention, the petitioner produced the receipts of house tax rent, death certificate of his mother, proceedings by the respondents and the representation given by the petitioner at various point of time.



W.P.(MD)No.19054 of 2022

WEB COPY

5.The learned counsel for the third respondent would submit that the tenancy stands in the name of the petitioner's mother, who was tenant under the temple. Till now, the tenancy not changed to the name of the petitioner. The petitioner is residing in the above said house for a long period. That alone would not give him any right to continue with the tenancy, despite not paying the tenancy amount. The petitioner if aggrieved against the fixation of the tenancy amount, he may file revision before the Commissioner under Section 21 of the Act. The petitioner is squatting over the temple property and not paying the rent. which is not disputed by the petitioner. Thus, encroaches are liable to be removed. Already, steps initiated by the temple authorities, to vacate the petitioner under Sections 78 & 79 of HR&CE Act.

6.Mr.R.Subbaraj, the learned Special Government Pleader appearing for the respondents 1 & 2 and submits that the petitioner admit that he is residing in the temple property. The petitioner's long residence would not give him right to make unreasonable objections and demands. The petitioner admits that the property situated in the prime locality, in the heart of the Madurai City. The petitioner is having the knowledge of



W.P.(MD)No.19054 of 2022

refixation of tenancy amount. Now, the petitioner may file an application before the Commissioner, HR&CE Department, Chennai, under Section 21 of the HR&CE Act. The officials and the temple authorities may take steps to remove the encroachment/ petitioner by following the rules and regulations.

7.Considering the submission made on either sides, it is seen that the grievance of the petitioner is that he is residing in that place for more than 50 years right from his birth; He is a bachelor; without any income, running his life with support from his brothers and sisters; These qualifications would not give any right to continue the tenancy without payment of tenancy amount. The property belongs to the temple.

8.The petitioner is directed to approach the Commissioner, HR&CE Department, Chennai, by filing appeal under Section 21 or 34-A (3) of HR&CE Act, which ought to have been filed within a period of 90 or 30 days from the date of receipt of a copy of the order and by depositing the refixation of tenancy amount due.



W.P.(MD)No.19054 of 2022

WEB COPY

9.The petitioner is at liberty to file a fresh petition before the Commissioner, considering the petitioner's status if it is supported with appropriate documents. The Commissioner may favourably consider the condonation of delay and for payment of predeposit.

10.With the above direction, this Writ Petition is disposed of. Consequently, the connected miscellaneous petition is closed. No costs.

15.07.2022

Index: Yes/No
Internet : Yes/No
dss

To

1. The Commissioner,
Hindu Religious and Charitable Endowments Department,
Uthamar Gandhi Salai,
Nungambakkam,
Chennai-600 034.

2.The Joint Commissioner,
Hindu Religious and Charitable endowments Department,
Madurai.

3.The Executive Officer,
Arulmigu Kalyanasundareshwarar Thirukkivil,
Avaniyapuram,
Madurai-122.



WEB COPY



W.P.(MD)No.19054 of 2022

M.NIRMAL KUMAR, J.

dss

W.P.(MD)No.19054 of 2020

15.07.2022