



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.06.2022

CORAM:

THE HONOURABLE **MR.JUSTICE M.NIRMAL KUMAR**

W.P.(MD)No.17165 of 2018

and

WMP(MD) No.15101 of 2018

Jeganathan

.. Petitioner

Vs

1. The Joint Commissioner
HR & CE Department,
Madurai.

2. The Executive Officer
Arulmigumeenakshi Sundareshwarar Temple,
Aundipatti Town
Theni District

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned notice dated 30.11.2017 issued by the second respondent and quash the same and consequently direct the respondents to enhance the rent as per the Government guidelines by giving reasonable opportunity for personal hearing in accordance with law,

For Petitioner	: Mr.P.Sivachandran
For Respondents	: Mr. M.Lingadurai
No.1	: Special Government Pleader
No.2	: Mr.V.Chandrasekar

ORDER

The present Writ Petition has been filed to quash the impugned notice dated 30.11.2017 issued by the second respondent and direct the respondents to enhance the rent as per the Government guidelines by giving reasonable opportunity of personal hearing to the petitioner in accordance with law.

2. The petitioner is the grandson of V.Rajendra Nadar who was the original tenant under the second respondent in S.No.711-A3 to an extent 617.20 sq.ft and was paying monthly rent of Rs.144/- who was issued with an impugned order, dated 30.11.2017, whereby the rent was fixed from 01.07.2016 to Rs.1543/-, against which, the petitioner has preferred this writ petition.

3. During the pendency of this writ petition, the petitioner was directed to pay a sum of Rs.750/- per month. Today, the petitioner submits that the petitioner has complied with the interim



order passed by the Court and it is also not disputed by the second respondent.

4. The primary contention of the petitioner is that the petitioner dwells in the said property and his grandfather had given possession of the property before 1940 and from thereon, they are continuously in possession and enjoyment of the said property. They have been paying the fixed rent without any dues.. This being the case, suddenly without giving any notice, calling for enquiry and without making any physical verification and without following the procedure under Section 34- A of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, the second respondent had arbitrarily issued refixation notice .

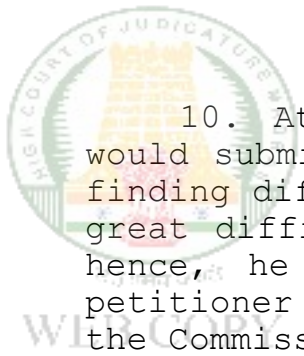
5. Accoridng to the petitioner his grand father was only allotted bare land and there after his father had put up construction and they are residing there in the said place. The fixing of fair rent and that to for the past period, is not proper and it is in violation of law.

6. Be that as it may, the petitioner had complied with the order passed by this Court and paid the amount fixed at Rs.750/- monthly . The petitioner if aggrieved has to approach the Commissioner and file a petition under Section 34-A(3) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959.

7. The learned counsel appearing for the first respondent submitted that if the petitioner is aggierved with the order of refixation of fair rent has to approach the Commissioner and file an appeal before the Commissioner.

8. The learned counsel for the petitioner submits that as per the direction of this Court the petitioner has complied with the order and paid a sum of Rs.750/- till date.

9. It is seen that the petitioner has complied with the order. Further, the petitioner has to file an appeal before the Commissioner within a period of 30 days, due to the filing the above of the writ petition prescribed period of 30 days lapsed. The petitioner is granted four weeks time to file an appeal before the Commissioner and seek his remedy under Section 34 -A (3) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959.



10. At his juncture, the learned counsel for the petitioner would submit that the petitioner is only a daily coolie and he is finding difficult for hand to mouth existence for his expenses, with great difficulty, he mobilized the said amount of Rs.20,250/- and hence, he seeks some leinency. Considering the same, if the petitioner files any application before the Commissioner, it is for the Commissioner to consider the same.

11. With the above direction, the Writ Petition stands disposed of. No costs. Consequently connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/06/2022

Sub Assistant Registrar(CS)

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To

The Joint Commissioner
HR & CE Department,
Madurai.

+1 CC to M/s.P. SIVACHANDRAN, Advocate (SR-26500[F] dated 17/06/2022)

+1 CC to M/s.SPL.GP (SR-26730[F] dated 20/06/2022)

W.P. (MD)No.17165 of 2018

and

WMP (MD) No.15101 of 2018

16.06.2022

RD(29.06.2022) 3P 4C