



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **25.02.2022**

CORAM:

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P. (MD) No.17719 of 2018

and

W.M.P. (MD) Nos.15600 & 15601 of 2018

WEB COPY

R.Sekar

... Petitioner

/vs./

1.The Assistant Commissioner,
Hindu Religious and Charitable Endowment,
Kumbakonam,
Thanjavur District.

2.The Executive Officer,
Hindu Religious and Charitable Endowment,
Arulmigu Kasiviswanathaswamy Thirukoil,
Kumbakonam Town,
Thanjavur District.

3.S.Kallyani

4.V.Kulanjiappan

(R3 & R4 have impleaded vide court order
dated 22.02.2022.

... Respondents

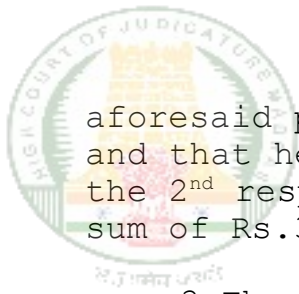
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records of the 2nd respondent relating to the impugned notice dated 26.7.2018 and to quash the same.

For Petitioner	: Mr.N.Balakrishnan for Mr.S.Rajaprabu
For R1	: Mr.P.T.Thiraviam Government Advocate
For R2	: Mr.V.Chandrasekar
For R3 & R4	: Mr.M.Gnanagurunathan

ORDER

This writ petition has been filed for a Certiorari to call for the records of the 2nd respondent relating to the impugned notice in Fixed Rent Notice dated 26.07.2018 and to quash the same.

2.The petitioner claims to be the grandson of Vaiyapuri Velalar, who was the original tenant. It is the specific case of the petitioner that the petitioner has been in occupation of the



aforesaid property along with his grandmother, namely, Anjalai Ammal and that he has been paying rent meticulously without fail. However, the 2nd respondent has issued the impugned demand notice, demanding a sum of Rs.3,91,806/-, vide impugned order dated 26.07.2018.

3.The impugned notice is challenged primarily on the ground that the demand has been made contrary to the fair rent fixed by the authorities, in terms of the Government Orders and without due notice to the petitioner. The learned counsel for the petitioner submits that the petitioner is not an encroacher as he continues in occupation of the rented property of the 2nd respondent as a direct legal descendant of the original tenant, namely, Vaiyapuri Velalar.

4.Opposing the prayer, learned counsel for the 2nd respondent submits that the petitioner has been irregular and has not paid the rent and is in arrears and is not a recognized tenant as per the records maintained by the 2nd respondent and therefore, he is liable to be evicted. It is further submitted that the petitioner has no *locus standi* either to demand the fair rent to be levied on him or any notice and since the petitioner has failed to pay the amount as demanded, as per notice dated 31.08.2017 and the encroachment notice dated 13.01.2018 cited in the impugned notice. It is submitted that the petitioner was asked to pay the amount, failing which the petitioner will be evicted. It is therefore submitted that the writ petition filed by the petitioner is without any merits and is liable to be dismissed.

5.I have considered the arguments advanced by the learned counsel for the petitioner and the learned Government Advocate for the 1st respondent and the learned counsel for the respondents 2 to 4.

6.The petitioner has been given one last opportunity to pay the amount, failing which the respondents have threatened to terminate the lease given to the petitioner's late.Grandfather, through whom the petitioner claims possession of the rented property. The petitioner appears to have been paid the rent up to a particular point of time. The petitioner is in occupation of the house property on a land, which approximately measures about 2164.5 sq.ft., in a prime location in Kumbakonam District. The petitioner cannot therefore avoid payment of the amounts demanded by the 2nd respondent for continuing in occupation of the aforesaid property.

7.In view of the above, this writ petition stands disposed of with the following directions:-

i) The petitioner is directed to pay the amount demanded in the impugned notice dated 26.07.2018 by the 2nd respondent within a period of 60 days from the date of receipt of a copy of this order. If any amount is paid by the petitioner, the same shall be adjusted by treating the same. The petitioner shall also continue to pay the enhanced rent fixed.



ii) The 2nd respondent is directed to give a notice to the petitioner, fixing the fair rent in accordance with the provisions of the Act.

iii) In case, the fair rent has already been fixed, the same shall be communicated to the petitioner.

iv) In case the petitioner is required to pay additional amount, the petitioner shall pay such additional amount as may be determined in accordance with the provisions of the Act.

v) The aforesaid exercise shall be carried out within a period of 3 months from the date of receipt of a copy of this order.

No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Writs)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

mm

To

The Assistant Commissioner,
Hindu Religious and Charitable Endowment,
Kumbakonam,
Thanjavur District.

+1 CC to M/s.M.GNANAGURUNATHAN, Advocate (SR-8868[F] dated 25/02/2022)

+1 CC to M/s.V.CHANDRASEKAR, Advocate (SR-8914[F] dated 28/02/2022)

+1 CC to M/s.SPL GP (SR-9010[F] dated 28/02/2022)

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25.02.2022

RK(18/03/2022) 3P 5C