



W.P.(MD)No.24238 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED :20.10.2022

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)No.24238 of 2022

and

W.M.P.(MD).No.18345 of 2022

Annamalaiyan

... Petitioner

Vs.

1.The Joint Commissioner,
Tamil Nadu Hindu Religious and
Charitable Endowment Department,
Ellis Nagar,
Madurai.

2.The Deputy Commissioner/
Executive Officer,
Arulmigu Meenakshi Sundareswarar
Temple,
Madurai.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent dated 16.09.2022 in proceedings Na.Ka.No. 6012/2022/E2-6, quash the same, as the same is arbitrary, ultravires, and consequentially direct the respondents to refix the fair rent on the basis of the petitioner's objections dated 11.02.2022 in respect of the property comprised in Shop.No.346, Usilai Road, Thirumangalam, Madurai.



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For Petitioner :Mr.R.G.Shankar Ganesh
For Respondents :Mr.P.Subbaraj
Special Government Pleader for R1
:V.R.Shanmuganathan for R2

ORDER

The writ petition is filed challenging the impunged proceedings dated 16.09.2022 wherein the second respondent has issued a demand notice for a sum of Rs.8,73,130/- (Rupees Eight Lakhs Seventy Three Thousand One Hundred and Thirty only) representing the rental dues for the period 01.07.2019 to 30.06.2022, by calculating rental at the rate of Rs. 18,000/- (Rupees Eighteen Thousand only) per month. The above proceedings also provides that in the event of failure, resort would be made to Sections 78 and 79 of the Hindu Religious and Charitable Endowment Act.

2. It is submitted by the learned counsel for the petitioner that the petitioner is in possession, enjoyment of the premises and carrying on business and has been paying monthly rent at Rs.3,600/- (Rupees Three Thousand and Six Hundred only) which was enhanced to Rs.15,000/-



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(Rupees Fifteen Thousand only) by virtue of the order dated 30.12.2017.

The same was challenged before this Court in W.P(MD).No.1116 of 2020, wherein this Court was pleased to grant interim order directing the petitioner to pay a sum of Rs.10,000/- (Rupees Ten Thousand only) towards monthly rent with effect from September 2019. Thereafter, there was one more proceedings, whereby the rent now stands enhanced to Rs.18,000/- (Rupees Eighteen Thousand only) per month vide notice dated 04.02.2022 with effect from 01.07.2019 to 30.06.2022.

3. It is submitted by the learned counsel for the petitioner that an objection was filed wherein it was pointed out that the calculation sheet which was annexed with the notice dated 04.02.2022, is unsigned by the Committee and thus, the entire proceedings was objected as being bad and invalid in law. However, the impugned notice has been issued even before an order has been passed fixing the fair rent which is proposed to be enhanced vide notice dated 04.02.2022 to Rs.18,000/- (Rupees Eighteen Thousand only) demanding the petitioner to pay rent at Rs.18,000/- (Rupees Eighteen Thousand only) per month from 01.07.2019 to 30.06.2022 and



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consequently, demanding a sum of Rs.8,73,130/- (Rupees Eight Lakhs Seventy Three Thousand One Hundred and Thirty only).

4. It is submitted by the learned counsel for the petitioner that the impugned proceedings i.e., demand notice is premature inasmuch as neither formal order has been passed fixing the fair rent, nor has the objection of the petitioner that the proposal suffers from various infirmities been considered.

5. It is submitted by the learned counsel for the Respondents that that the maintainability of the Writ Petition itself is doubtful, inasmuch as it has been consistently held by this Court that once a statutory remedy is availed of, it may not be possible to maintain the Writ Petition. It is submitted by the respondent that though an appeal has been filed, the mandatory pre-deposit has not been complied with. It is submitted by the learned counsel for the respondents that the rental dues shall be calculated for the period 01.07.2019 to 30.06.2022 at the rate fixed by the respondent and the same must be paid for the appeal to be entertained.



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6. It is submitted by the learned counsel for the petitioner that a sum of Rs.2,50,000/- (Rupees Two Lakhs and Fifty Thousand only) has already been paid and the petitioner would pay the remaining sum representing the rental for the period of 01.07.2019 to 30.06.2022 after setting off a sum of Rs.2,50,000/- (Rupees Two Lakhs and Fifty Thousand only).

7. In view of the same, the petitioner is directed to pay 50% of the remaining fair rent for the period from 01.07.2019 to 30.06.2022 as fixed by the Committee within a period of two (2) weeks from the date of receipt of a copy of this order and shall pay the remaining fair rent in two monthly installments on 30.01.2023 and 28.02.2023. If the petitioner complies with the above condition, the appeal shall be disposed of within a period of twelve (12) weeks thereon. In the event of failure on the part of the petitioner to comply with the above condition, it is open to the respondents to proceed further in accordance with law.

8. With the above directions, this writ petition stands disposed of.



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No costs. Consequently, the connected writ miscellaneous petition is closed.

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Index : Yes / No

Speaking Order/Non-speaking order

sbn

To

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2.The Deputy Commissioner/Executive Officer,
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MOHAMMED SHAFFIQ, J.

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