



W.P.(MD)No.19749 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P.(MD)No.19749 of 2016

and

W.M.P.(MD).No.14239 of 2016

K.Pandiyanathan

.. Petitioner

Vs

**1.The Commissioner,
Hindu Religious and Charitable Endowment,
Nungampakkam,
Chennai-34.**

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

**3.The Executive Officer,
Arulmigu Manthai Karuppanasamy Thirukovil,
Uranganpatti,
Melur Taluk,
Madurai District.**

.. Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the impugned proceedings dated 30.06.2016 of the third respondent and the order of the third respondent reducing the extent of leased land to 1508 sq. ft from the



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original extent of 50 cents of leased land, leased to the petitioner under the lease deed dated 27.08.1952 and to quash the same.

For Petitioner	: Mr.V.Santha Kumaresan
For R1 and R2	: Mr.M.Lingadurai Special Government Pleader
For R3	: Mr.S.Manohar

ORDER

This Writ Petition has been filed to quash the impugned order passed by the third respondent, dated 30.06.2016 and the order of the third respondent reducing the extent of leased land to 1508 sq. ft from the original extent of 50 cents of leased land, leased to the petitioner under the lease deed, dated 27.08.1952.

2.The contention of the petitioner is that on 08.12.2014 the third respondent issued a notice stating that the petitioner is a defaulter for rent arrears of Rs.1,14,440/-. Immediately after receiving the notice, the petitioner appeared before the third respondent in the month of December 2014 and disclosed that he paid rent till July 2012 and that the



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rent is pending from August 2012 to December 2014 for 29 months. The petitioner paid the rent arrear of Rs.8,700/- to the third respondent in person. But, third respondent refused to receive the rent and to issue the receipt for the same. Hence, on 27.01.2015, the petitioner had sent a legal notice along with rent arrears of Rs.8,700/- by way of demand draft. Subsequently, on 11.02.2015, the third respondent sent an intimation to the petitioner with details in respect of fixation of rent and particulars of rent arrears.

3.As per the intimation, the lease rent fixed as Rs.960/- per month and the rent arrears of Rs.1,29,980/-, which is pending from the year 2001. As per Section 34-A(2) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, the third respondent should intimate the fixation of rent Rs.960/- per month to the petitioner. Further, a committee has to be formed. Thereafter, the rent may be fixed in this case, the petitioner objection if any, to be submitted. Since the petitioner has been projected as a defaulter and following the same as encroacher and steps have been taken to remove the petitioner from the property. The petitioner received notice on 06.10.2015, wherein, the temple



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authorities have stated that the proceedings to be initiated under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, by the Joint Commissioner. It is not proper. Hence, he has filed this present Writ Petition.

4.The petitioner further submitted that at the stage of admission an interim order was passed and the petitioner was directed to pay the rent arrears to fasli 1426 of a sum of Rs.1,37,960/-. On 23.11.2016, the petitioner paid Rs.50,000/- , on 15.12.2016, the petitioner paid Rs. 50,000/- and On 20.01.2017, he paid Rs.37,960/-. Thereafter, this Court had already observed that the petitioner to continue to pay the revised lease amount and if the petitioner is having any grievance with regard to the lease amount, he is at liberty to challenge the said order before the appropriate forum. Thereafter, the petitioner had filed AP on 09.01.2018 before the Commissioner, in which, the enrollment number has been given as 8716, but, yet to be taken on file and assigning appeal number.

5.The learned counsel appearing for the third respondent submitted that this writ petition to be dismissed, since the impugned order notice is



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issued proposed to initiate steps against the petitioner being encroacher comes under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. It is for the Joint Commissioner, if satisfy issue notice to the petitioner for objection if any, and objection would be considered and appropriate order will be passed by the joint commissioner. At this premature stage, even in the intimation about the proposed steps to be taken by the third respondent. He further submitted that the main grievance now seems to be is the fixation of form which is under Section 34 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. If at all the petitioner is aggrieved, he has to file an appeal before the commissioner. On the submission of the petitioner, It seen that the appeal filed. Further he submitted that the petitioner has to pay arrears Rs.1,74,760. He further submitted that though the petitioner even before suffering any order, had approached this Court only pre-notice has been issued and no steps taken under Section 78 . hence, this petition is liable to be dismissed.

6.Considering the submissions and perused the materials, this Court finds no merits in the contention of the petitioner. Hence, this writ



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petition is dismissed. There shall be no order as to costs. Consequently,
the connected writ miscellaneous petition is closed.

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Index: Yes/No
Internet : Yes/No
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