



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2022

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD).Nos.23616 of 2019 and 1116 of 2020
and

W.M.P.(MD).Nos.20236 of 2019, 896 of 2020 and 1967 of 2021

W.P.(MD).No.23616 of 2019:

Annamalaiyan

... Petitioner

Vs.

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

...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent, dated 24.08.2019 in proceedings Na.Ka.No.1678/ 2019/E2-20, quash the same, as the same is arbitrary, ultravires, in violation of principles of natural justice, audi alteram partem and consequentially direct the respondent to demand rent in consonance with G.O.Ms.No.456 Tamil Development, Hindu Religious and Charitable Endowment News dated 09.11.2007 in respect of Shop No.346, Usilai Road, Thirumangalam, Madurai.

For Petitioner : Mr.R.G.Shankar Ganesh
For Respondent : Mr.V.R.Shanmuganathan
Standing Counsel.

W.P.(MD).No.1116 of 2020:

Annamalaiyan

... Petitioner

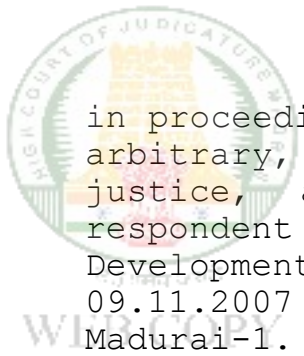
Vs.

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

...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent dated 30.12.2017

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in proceedings Na.Ka.No.2925/2017/E2, quash the same, as the same is arbitrary, ultravires, in violation of principles of natural justice, audi alteram partem and consequentially direct the respondent to demand rent in consonance with G.O.Ms.No.456 Tamil Development, Hindu Religious and Charitable Endowment New dated 09.11.2007 in respect of Shop No.346, Usilai Road, Thirumangalam, Madurai-1.

For Petitioner : Mr.R.G.Shankar Ganesh
For Respondent : Mr.V.R.Shanmuganathan
Standing Counsel.

COMMON ORDER

The petitioner has challenged the impugned order, dated 24.08.2019, fixing the fair rent for the property in W.P.(MD). No.23616 of 2019. In W.P.(MD).No.1116 of 2020, the petitioner has challenged the consequential demand notice, dated 30.12.2017. As on the date of the writ petition, the arrears as per the impugned order, dated 30.12.2017 was Rs.2,16,900/-.

2. It is the case of the petitioner that the petitioner was paying a fair rent of Rs.3,630/- and that by order, dated 24.08.2019, the Joint Commissioner increased the rent manifold times to Rs.15,700/- and since the aforesaid order was not communicated to the petitioner and only the recovery notice was issued, dated 30.12.2017, the petitioner was therefore constrained to file W.P. (MD).No.1116 of 2019. It is submitted that at the time of admission in W.P.(MD).No.1116 of 2020, an interim order was passed by permitting the petitioner to pay a sum of Rs.10,000/- with effect from September 2019.

3. The learned counsel for the petitioner has drawn attention to the revision notice, dated 04.02.2022, whereby, the rent now has been enhanced to Rs.18,000/- with effect from 01.07.2019 up to 30.06.2022.

4. Opposing the prayer, the learned counsel for the respondent submits that the petitioner has an alternate remedy before Commissioner under Section 34 A (3) of the Hindu Religious and Charitable Endowments Act. It is further submitted that the conditional order, dated 22.01.2020, passed by this Court has not been complied by the petitioner and that as on date, the petitioner was in arrears of Rs.9,41,998/-. It is submitted that the petitioner has not challenged the subsequent revision and therefore, the writ petition filed by the petitioner is liable to be dismissed. It is submitted that the petitioner has received the calculation Form fixing the fair rent on 01.02.2018, which was duly acknowledged by the petitioner on 24.10.2018. Therefore, the petition filed by the petitioner is devoid of merits and liable to be dismissed.



5. I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the respondent.

6. The petitioner has challenged the enhancement of the fair rent fixed earlier from Rs.3,630/- to Rs.15,700/- in the impugned proceedings, before this Court. The Court had given an interim order on 22.01.2020. It is the specific case of the respondent that the petitioner has not complied with the requirements of the aforesaid order by paying a sum of Rs.10,000/-. The fact of the matter is that the petitioner has an alternate remedy before the Commissioner under Section 34 A (3) of the Act. Instead of filing a statutory appeal, the petitioner filed the writ petition belatedly, even though the calculation was served on the petitioner on 24.10.2018. The respondent has recognised the petitioner as a tenant and has now enhanced the fair rent to Rs.18,000/- as it is evident from the copy of the communication, dated 04.02.2022 of the first respondent Joint Commissioner.

7. Considering the fact that the petitioner was in arrears of rent and since the petitioner may have the case for downward revision of the rent, I am inclined to dispose the writ petition by giving liberty to the petitioner to file a statutory appeal within a period of 60 days from the date of receipt of copy of this order subject to the condition that the petitioner remits the entire arrears of tax up to 30.06.2019. As far as the subsequent revision of fair rent vide communication, dated 04.02.2022 is concerned, the petitioner is required to work out appropriate remedy in accordance with law under the provisions of the Hindu Religious and Charitable Endowment Act. If such appeal is filed by the petitioner within such period, the Commissioner shall consider the same and dispose of on merits and in accordance with law. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (P&A)

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/ /2022

Sub Assistant Registrar(CS)

To
The Joint Commissioner / Executive Officer,
Arulmigu Meenakshi Sundareswarar Temple, Madurai.

W.P. (MD) .Nos.23616 of 2019 and 1116 of 2020
15.03.2022

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