



WEB COPY

W.P(MD).No.26809 of 202



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.11.2022

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P(MD).No.26809 of 2022

and

W.M.P(MD)No.20993 of 2022

Kariyadarisi

... Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Chennai-34.

2.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Tenkasi.

3.The Executive Officer,
Arulmighu Sankaranarayanswamy Thirukovil,
Sankarankovil,
Tenkasi District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned order in Na.Ka.No.2602/2022-1/A3, dated 09.11.2022 on the file of the 2nd Respondent and quash the same.

For Petitioner	: Mr.K.Jeyamohan
For R1 & R2	: Mr.P.Subbaraj Special Government Pleader
For R3	: Mr.V.R.Shanmuganathan

**ORDER**

This writ petition has been filed challenging the recovery proceedings, dated 09.11.2022 initiated under Section 79-C of the Hindu Religious and Charitable Endowments Act seeking to recover a sum of Rs.3,63,958/-.

2. It is submitted by the learned counsel for the Petitioner that the Petitioner was the Secretary of E.E.361 Consumer Co-operative Warehouse Limited. The said society was in the building of the 3rd Respondent temple and has always paid the rent due in time. The 3rd Respondent issued a notice to the Petitioner to vacate and hand over the possession for the reason that the building was in dilapidated condition and requires renovation. Subsequently, by proceedings, dated 27.09.2017, the 3rd Respondent without following the procedure contemplated under Section 34-A of the Hindu Religious and Charitable Endowments Act, enhanced the rent from Rs.3,380/- to Rs.57,670/- per month with retrospective effect from 01.07.2016. In response to the said notice, the Society gave a detailed reply with regard to the enhanced rent. The 3rd Respondent vide his proceedings, dated 07.12.2018 re-fixed the rent from Rs.3,380/- to Rs.42,500/- per month with retrospective effect from 01.07.2016. The Society unable to pay the enhanced rent, vacated the premises on 15.04.2019 and handed over possession to the Temple authorities.



3. While so, the 2nd Respondent vide proceedings, dated 20.06.2022 called upon the Society to repay a sum of Rs.13,90,943/- as arrears of rent to the 3rd Respondent. No prior notice was issued to the Petitioner before fixing such amount as arrears with interest. It is submitted that the appeal has been preferred by the Society before the 1st Respondent regarding the fixation of fair rent, which is still pending. In the meantime, the 2nd Respondent has proceeded to set off a sum of Rs.10,26,985/- which is said to be an amount due to the Petitioner from the 3rd Respondent.

4. To the contrary, the learned counsel for the Respondents submits that an appeal under Section 34 A of the Hindu Religious and Charitable Endowments Act ought to be accompanied by satisfactory proof of deposit of lease rent fixed or re-fixed and the appeal suffers from certain other defects.

5. It is submitted by the learned counsel for the Petitioner that he may be granted an opportunity to rectify the defects in appeal and also undertakes to pay remaining sum of Rs.3,63,958/- within a period of four months. The learned counsel for the Respondents does not have serious objections to the request.



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6. However, taking into account the circumstances putforth by the Petitioner, this Court is of the view that the Petitioner shall rectify the defects in appeal and also pay a remaining sum of Rs.3,63,958/- within a period of four months from the date of receipt of copy of this order. Until then, the impugned proceedings shall be kept in abeyance. If the Petitioner fails to comply with the above condition, it is open to the Respondents to proceed in accordance with law after affording a reasonable opportunity to the Petitioner and other stake holders/interested parties, if any.

7. The writ petition stands disposed of on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

29.11.2022

Index : Yes / No
Internet : Yes/ No
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MOHAMMED SHAFFIQ, J.

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