



WP (MD) No.21792 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 24.08.2022

PRONOUNCED ON : 29.08.2022

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

**W.P(MD)No.21792 of 2017
and
WMP(MD)No.18086 of 2017**

S.Solai Aththiyappan

.. Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable Endowment,
Nunkampakkam,
Chennai - 600 034.

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

3.Arulmigu Meenatchi Sundhareshwarar Thirukovil,
Through its Executive Officer,
Andipatti,
Andipatti Taluk,
Theni District.

.. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records relating to the impugned order dated 10.10.2017 of the 3rd respondent and to quash the same.

For Petitioner : Mr.V.Santhakumaresan

For R1 and R2 : Mr.M.Lingadurai
Spl. Government Pleader

For R3 : Dr. C. Gunaseelarupan



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ORDER

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The petitioner, challenging the impugned rental arrears Notice, dated 10.10.2017, has filed the present Writ Petition.

2. The contention of the petitioner is that from time immemorial, the petitioner's forefathers and his ancestors living in the house, situated in Andipatti. Finally, the petitioner's father, as being descendents, lived in that house with family, till his death. Thereafter, the petitioner came in possession and enjoyment of the property. The petitioner has also put up construction, residing there and paying the Kanikkai at Rs.619/- to the third respondent every month. Further it is submitted that land does not belong to the Temple, it is a Natham Poramboke. As per revenue records, the land is classified as gramanatham. The petitioner is in possession of 744.79 sq.ft. of land. Suddenly, the 3rd respondent revised the monthly rent and re-fixed as Rs.1,862/- from 01.07.2016. Thus, the fixation of fair rent by the 3rd respondent is arbitrary and unsustainable. He would further submit that the 3rd respondent issued a Notice, dated 10.10.2017, claiming arrears of rent from 01.07.2016 onwards. Further, if the petitioner fails to make payment, proceedings under Section 78 of the Hindu Religious and Charitable Endowment Act will be initiated.



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3. The learned counsel for the 3rd respondent would submit that now the petitioner is residing in the property. The petitioner has got arrears of rent as on 30.06.2022, to the tune of Rs.1,18,493/-. The petitioner has produced -A- Register wherein, the property in S.No. 711/A belongs to "Meenakshi Sundareswarar Devasthanam", whereby, confirming the land belong to the Temple. He would further submit that apart from the petitioner, several other tenants put up their construction and residing there. Some of them are paying rent and some of them are paying the revised rent. In some cases, proceedings initiated, in some cases, it is pending and in some cases, possession taken. Thus, the Temple is the rightful owner of the property and they have every right to issue Notice for re-fixation of rent. In case of any default or arrears of rent, they can be declared as encroachers and possession of the property can be taken. So far, this petitioner is concerned, he after filing the writ petition made payment of Rs.33,683/~, which confirms that he is very much interested with the tenancy.

4. Heard the learned counsel appearing on either side and perused the materials available on record.

5. In view of the above , it is seen that the only grievance seems to be is that such huge amount of arrears of rent cannot be paid immediately, he seeks short accommodation to make payment in



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installment, of course, without any prejudice to his right to file civil suit questioning the right of the Temple in the above land. Apart from paying the revised rent of Rs.1862/-, he undertakes to pay Rs.10000/~ per month to discharge the liability of earlier arrears of rent of Rs.1,18,493/- within a period of twelve months by monthly installments of Rs.10,000/- commencing from November 2022. In the event of any waiver, recall of any claim on the revised rent in respect of quantum and period, the same benefit to enure to the petitioner, whereby, the rent already paid, if it is in excess, the same to be adjusted in future rents giving credit and benefit to the petitioner. The petitioner admittedly is residing in the property for more than several decades.

6. With the above direction, the Writ Petition stands disposed of. No costs. Consequently connected miscellaneous petition is closed.

29.08.2022

Index : Yes / No
Internet : Yes / No

MPK



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M.NIRMAL KUMAR, J.

MPK

Pre-Delivery Order made in
W.P(MD)No.21792 of 2017

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