



WEB COPY

W.P.(MD)No.23473 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.06.2022

CORAM:

THE HONOURABLE **MR.JUSTICE M.NIRMAL KUMAR**

W.P. (MD)No.23473 of 2017

and

WMP (MD) No.19737 of 2017

R.Jeyapal

.. Petitioner

Vs

1. The State of Tamil Nadu Rep.by
Secretary to Government
Hindu Religious and Charitable Endowment
Department
Fort St.George,
Chennai- 600 009.
2. The Commissioner
Hindu Religious and Charitable Endowment
Department,
Nungambakkam, Chennai.
3. The Assistant Commissioner
Hindu Religious and Charitable Endowment
Department
Madurai.
4. The Executive Officer
Arulmighu Kattu Bathirakaliamman Kovil
Vengadasamuthiram
Tirumangalam Taluk,
Madurai District

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the entire records of the impugned order passed by the 4th respondent dated 13.07.2017 as well as the subsequent communication dated 14.11.2017 issued in respect of the petitioners land in Sy.No.295/1A2A and quash the same as illegal and consequently direct the 4th respondent to follow the earlier proceedings of the 3rd respondent in Na.Ka.No.685/1998/A1 dated 18.03.2009.

For Petitioner

: Mr.C.Kumar

For Respondents

: Mr.M.Lingadurai

No.1 to 3

Special Government Pleader

For R4

: Mr.S.Manohar



ORDER

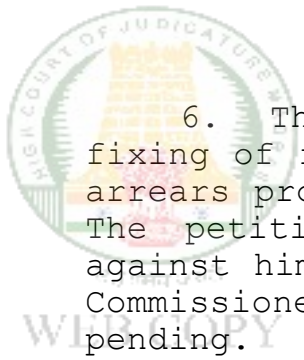
The petitioner challenging the fair rent proceedings issued by the fourth respondent on 14.11.2017 has filed the present writ petition.

2. The contention of the petitioner is that the property of Arulmighu Kattu Bathirakaliamman Kovil, Vengadasamuthiram Taluk, Madurai District belongs to the fourth respondent. The petitioner is the tenant to an extent of 1 acre 27 cents which belongs to the temple. The petitioner is properly paying rent of Rs.10,000/-per month as determined by the third respondent vide his proceedings in Na.Ka.No.685/1998 dated 18.03.2009. This being the case, the third respondent namely the Assistant Commissioner issued proceedings dated 13.07.2017 determining Rs.50,000/- that too from 01.07.2016 to 30.06.2017, after giving credit rent amount so far paid.

3. Further contention of the petitioner is that fixing monthly rent of Rs.50,000/- retrospectively is not proper. He further submitted that the fourth respondent in violation of principles of natural justice has passed the impugned order. The petitioner had placed objection on 17.08.2017, it was not considered. The fourth respondent refixing the rent for the past period of 01.07.2016 to 30.06.2017 determining the petitioner as defaulter is not proper. He further submitted that as per order of this Court dated 20.12.2017, 50% of the arrears of enhanced amount has been paid within a period of four weeks. Hence the impugned order issued by the fourth respondent without following the principles of natural justice to be quashed.

4. The learned counsel for the fourth respondent would submit that the impugned order is nothing but fixation of fair rent. If at all the petitioner is aggrieved, can challenge the same under Section 34 of the Hindu Religious and Charitable Endowment Act or only file a Civil Revision Petition and not the Writ Petition. Further submitted that after issuance of impugned order MP No. 38 of 2020 was filed before the Joint Commissioner under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. The petitioner participated in the 78 proceedings and suffered an order against him on 25.02.2021. Thereafter he filed an appeal before the Commissioner in RP No.117 of 2021 under Section 21 of the Act and it is pending. Further the Commissioner has passed an order directing the petitioner to deposit 30% of the arrears amount, so far the petitioner has not paid any amount. He further submitted that the petitioner's arrears to the temple is Rs.23,75,000/-. He further submitted that proceedings under Section 78 of the Act initiated and now completed and presently revision is pending, this writ petition is not maintainable, to be dismissed.

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



6. The impugned order challenged by the petitioner is only an fixing of fair rent by the committee. Thereafter for non payment of arrears proceedings under Section 78 of the Act has been initiated. The petitioner participated in the same and suffered an order against him and thereafter filed MP No. 38 of 202 before the Joint Commissioner and filed an appeal in R.P.No.117 of 2021 which is pending.

7. This Writ Petition is filed suppressing the pendency of Revision before the Commissioner Court in RP No.117 of 2021. In view of the same, the petition stands dismissed. No costs. Consequently connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS I)

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/ /2022

Sub Assistant Registrar(CS)

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To

1. The Secretary to Government,
State of Tamil Nadu,
Hindu Religious and Charitable Endowment Department
Fort St.George,
Chennai- 600 009.
2. The Commissioner
Hindu Religious and Charitable Endowment Department,
Nungambakkam, Chennai.
3. The Assistant Commissioner
Hindu Religious and Charitable Endowment Department
Madurai.

+1 CC to M/s.S. MANOHAR, Advocate (SR-25406[F] dated 13/06/2022)

+1 CC to M/s.SPL GP (SR-25383[F] dated 13/06/2022)

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MGJ(21.06.2022) 3P 6C