



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.06.2022

CORAM:

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

W.P.(MD)No.23943 of 2017

and

WMP(MD) No.20095 of 2017

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S.Lingaraja

.. Petitioner

Vs

1. The Commissioner

Hindu Religious and Charitable Endowment,
Nungambakkam,
Chennai- 600 034.

2. The Joint Commissioner

Hindu Religious and Charitable Endowment,
Madurai.

3. Arulmighu Meenatchi Sundhareshwarar Thirukovil

Through its Executive Officer,
Andipatti, Andipatti Taluk
Theni District

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records relating to the impugned order dated Nil of the third respondent and to quash the same.

For Petitioner	: Mr.V.Santhakumaresan
For Respondents	: Mr.P.T.Thiraviam
No.1 and 2	Government Advocate
No.3	: Mr.C.Guhaseelarupan
	Standing Counsel

ORDER

The petitioner challenging the impugned rental arrears notice dated Nil has filed the present writ petition.

2. The contention of the petitioner is that one Mariayappan Nadar was initially residing in the place and thereafter the petitioner came in possession and enjoyment of the property. The petitioner has also put up construction and residing there. From time immemorial the petitioner's forefather and his ancestors are living in the house situated in Aundipatti. After their demise the



petitioner is residing there and he was paying the kanikkai @ Rs.563/- to the third respondent every month. Further it is submitted that land does not belong to the temple, it is a natham poramboke land. As per revenue records the land is classified as grama natham. The petitioner is in possession of 440sq.ft. of land. Thus the fixation of fair rent by the third respondent is arbitrary and unsustainable. He would further submit that the third respondent has now issued a notice dated 13.12.2017 claiming arrears of rent from 01.07.2016 to 30.06.2019 and further the notice is that if the petitioner fails to make payment proceedings under Section 78 of the Hindu Religious and Charitable and Endowment Act will be initiated.

3. The learned counsel for the third respondent would submit that one Mariyappan Nadar was the tenant and thereafter the petitioner is residing in the property. The petitioner has got arrears as on 31.03.2022 to the tune of Rs.72,836/-. 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 have put up their construction and residing there. Some of them are paying rent and some of them are paying the revised rent. In some case 78 proceedings are initiated and in some case it is pending and in some cases possession has been taken. Thus the temple is the rightful owner of the property and they have every right to issue notice for refixation of rent and in case default 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 had made payment of Rs.21,450/-, 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 cannot be paid immediately he seeks short accommodation to make payment in 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. 1320/-, he undertakes to pay Rs.10000/- per month to discharge the liability of earlier arrears of rent of Rs.72,836/- within a period of eight month by monthly installments of Rs.10,000/- for eight months from the month of July 2022 and during the eighth month the balance amount of Rs.2836/- will be paid. In the event of any waiver, recall of any claim on the refixed rent in respect of quantum and period, the same benefit to enure to the petitioner, whereby the already paid rent, 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 65 years.



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

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar(CS)

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To

1. The Commissioner
Hindu Religious and Charitable Endowment,
Nungambakkam,
Chennai- 600 034.
2. The Joint Commissioner
Hindu Religious and Charitable Endowment,
Madurai.

+1 CC to M/s.C.GUHASEELARUPAN, Advocate (SR-25137[F] dated 10/06/2022)

+1 CC to M/s.SPL GP (SR-25447[F] dated 13/06/2022)

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RD(21.06.2022) 3P 5C