



WEB COPY



WP (MD) No.24137 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. 24137 of 2017
and
WMP(MD)No.20262 of 2017**

M. Vijayalakshmi

... Petitioner

Vs.

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

2.The Executive Officer,
Arulmigu Meenatchi Sundhareshwarar Thirukovil,
Andipatti,
Theni District.

.. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the impugned proceedings passed by the 2nd respondent dated 01.12.2017 issued in respect of the petitioner's land in Sy.No. 737/A in Aundipatti Village, Theni District and quash the same as illegal and consequently direct the 2nd respondent to re-fix rent for the vacant side in occupation of the petitioner by conducting independent enquiry.

For Petitioner : Mr.V.Santhakumaresan

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

For R2 : Mr.Dr.C.Gunaseelarupan



WP (MD) No.24137 of 2017

ORDER

WEB COPY

The petitioner, challenging the impugned rental arrears Notice, dated 01.12.2017, has filed the present Writ Petition.

2. The contention of the petitioner is that the property in SyNo. 737/A measuring an extent of 3 cents, belongs to "Arulmigu Meenakshi Sunderaswara Thirukovil, Aundipatti, Theni District" and she inducted as tenant long back in the year 1988. A lease deed executed to that effect in favour of the petitioner by the then Managing Trustee viz., Padiya Thevar. Thereafter, the petitioner put up a small concrete house at the measurement of 16 x 10 (160 Sq.ft) and at the backside of the building, by putting up a temporary roof set and using the same as a Kitchen. The original rent fixed by respondent was Rs.5/-, subsequently enhanced to Rs.25/- in the year 1992 and the same reflected in the proceedings of the then Chairman of the Trustee, dated 30.03.1999. Subsequently the petitioner asked to pay Rs.552/- per month. Now, all of a sudden, the respondent without any prior notice, mechanically and arbitrarily enhanced the rent to Rs.3,824/- per month, by the impugned proceedings of the 2nd respondent dated 01.12.2017.

3. The learned counsel for the 2nd 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.2,89,160/-. He would



WP (MD) No.24137 of 2017

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, she after filing the writ petition made payment of Rs.17,824/-, which confirms that she 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, she seeks short accommodation to make payment in installment, of course, without any prejudice to her right to file civil suit questioning the right of the Temple in the above land. Apart from paying the revised rent of Rs.3824/-, she undertakes to pay Rs.10000/- per month to discharge the liability of earlier arrears of rent of Rs.2,89,160/- within a period of twenty nine months by monthly installments of Rs.10000/- commencing from November 2022. In the



WP (MD) No.24137 of 2017

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



WEB COPY



WP (MD) No.24137 of 2017

To

- 1.The Commissioner,
Hindu Religious and Charitable Endowment,
Nunkampakkam,
Chennai - 600 034.
- 2.The Executive Officer,
Arulmigu Meenatchi Sundhareshwarar Thirukovil,
Andipatti,
Theni District.



WEB COPY



WP (MD) No.24137 of 2017

M.NIRMAL KUMAR, J.

MPK

Pre-Delivery Order made in
W.P(MD)No. 24137 of 2017

29.08.2022