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W.P.Nos.12140 of 2013 and 9711 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2023

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THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

W.P.Nos.12140 of 2013 and 9711 of 2022

and

WMP.No.9439 of 2023

Shammer S.Shah

... Petitioners in both the writ petitions

Versus

1. The Government of Tamil Nadu
Rep. By the Principal Secretary to Government,
Tourism, Culture and Religious Endowments Department,
Secretariat, Chennai-9.

2. The Commissioner
Hindu Religious and Charitable Endowments
Department,
Uthamar Gandhi Salai,
Nungambakkam, Chennai-34.

3. The Executive Officer,
Arulmighu Egambaranathar Temple and
Devasthanam, Kancheepuram.

...Respondents in W.P.No.12140 of 2013

1. The Commissioner
Hindu Religious and Charitable Endowments
Department,
Uthamar Gandhi Salai,
Nungambakkam, Chennai-34.



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2. The Joint Commissioner
Hindu Religious and Charitable Endowments
Department, Sathuvachari Road, Vellore-9.

3. The Assistant Commissioner,
Hindu Religious and Charitable Endowments
Department,
Kancheepuram Division,
o/o.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Kancheepuram.

4. The Executive Officer
Arulmighu Egambaranathar Temple and
Devasthanam, Kancheepuram.

... Respondents in W.P.No.9711 of 2022

Prayer in W.P.No.12140 of 2013: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the first respondent issued in G.O.Ms.No.221 Tamil Development, Religious Endowments and Information (Aa Ni 3.2) Department dated 15.12.2011 confirming the orders of the second respondent in Se.Mu.Proc.No.77121/96/V2 dated 13.01.2007 and Na.Ka.No.68321/2007 V-2 dated 19.08.2009 and quash the said orders in so far as fixation of damages for the period from 01.12.1996 to 30.11.2000 is concerned and direct the respondents to refund a sum of Rs.16,61,945/- for the petitioner.



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Prayer in W.P.No.9711 of 2022: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the 4th respondent herein not to proceed with the eviction notice dated 30.03.2022 received on 06.04.2022 by the petitioner pending disposal of the proceedings in R.P.No.82 of 2020 by the first respondent filed by the petitioner as against the order dated 04.03.2020 passed by the second respondent in its proceedings dated 04.03.2020 in Se.Mu.Na.Ka.No.7081/2016/E1 and M.P.No.1 of 2018.

For Petitioner : Mrs.A.L.Gandhimathi,
Senior Counsel
For M/s.K.Aravind
...in both the petitions

For Respondents : Mr.N.R.R.Arun Natarajan,
SGP For RR1 and 2
Mr.R.Bharanidharan R3
....in W.P.no.12140/2013
Mr.N.R.R.Arun Natarajan,
SGP For RR1 to 3
Mr.R.Bharanidharan R4
....in W.P.No.9711 of 2022

COMMON ORDER

Since the issue involved in both the matters and the facts are one and the same. Hence, both the petitions are disposed of by way of common order.



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2. W.P.No.12140 of 2013 has been filed seeking to quash the G.O.Ms.No.221 Tamil Development, Religious Endowments and Information (Aa Ni 3.2) Department dated 15.12.2011 passed by the first respondent and confirming the orders of the second respondent in Se.Mu.Proc.No.77121/96/V2 dated 13.01.2007 and Na.Ka.No.68321/2007 V-2 dated 19.08.2009.

3. W.P.No.9711 of 2022 has been filed seeking a direction to the 4th respondent herein not to proceed with the eviction notice dated 30.03.2022 received on 06.04.2022 by the petitioner pending disposal of the proceedings in R.P.No.82 of 2020 by the first respondent filed by the petitioner as against the order dated 04.03.2020 passed by the second respondent in its proceedings dated 04.03.2020 in Se.Mu.Na.Ka.No.7081/2016/E1 and M.P.No.1 of 2018.

4. It is the main grievance of the petitioner that he is the tenant under the respondents. The respondents have initiated a proceedings dated 04.03.2020 by under Section 78 of HR & CE Act. Pursuant to which, the buildings of the petitioner have been sealed for non-payment of the rent on 16.12.2022. In the



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meanwhile, these writ petitions have been filed.

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5. When the matters are taken up for hearing, the learned Senior Counsel appearing on behalf of the petitioner submitted that the respondents have not fixed the fair rent in respect of the subject properties as per law and it is relevant to note that the fair rent has been fixed from 01.02.2010 and a copy of the fair rent has already been served and the same has not been challenged and become final, which culminated into the order under Section 78 of HR & CE Act. When the Court was about to dismiss the writ petitions, the learned Senior Counsel, on instructions, submitted that as on date, a sum of Rs.85 lakhs is payable by the petitioner and taking note of the various circumstances, building is also constructed by the petitioner and requests that some amount may be reduced and the petitioner is ready to deposit the rent in installments.

6. The learned Special Government Pleader submitted that for quietus, if the petitioner will pay a sum of Rs.85 Lakhs towards arrears of rent and besides execute the gift deed in favour of the temple and the petitioner will pay the fair rent fixed by the authorities continuously, the respondents will consider and



regularise the tenancy.

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7. In reply, the learned Senior Counsel for the petitioner, on instructions, submitted that the petitioner has filed a memo stating that he will immediately deposit a sum of Rs.30 Lakhs and also he is ready to execute a gift deed in favour of the temple and the remaining arrears of Rs.55 Lakhs will be paid within a period of six months and the petitioner will abide the fair rent which was already fixed by the respondents and he will continue to pay the rent.

8. In view of the submission made by the learned Senior Counsel appearing on behalf of the petitioner and taking note of the memo filed by him, this Court passes the following orders:

"i) The petitioner shall pay a sum of Rs.30 Lakhs to the respondents towards rental arrears in respect of the temple property within a period of one month from the date of receipt of a copy of this order and he shall pay the remaining amount of Rs.55 Lakhs towards rental arrears to the respondents within a period of six months, thereafter;

ii) the petitioner shall execute a gift deed as agreed before this Court in favour of the temple;



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iii) the petitioner shall continue to pay the fair rent which was already fixed by the respondents in respect of the subject properties;and

iv) Upon receipt of payment of Rs.30 Lakhs, the respondents shall de-seal the premises within a period of one week from the date of receipt of the payment. If the petitioner fails to comply with any of the above conditions, the temple authorities shall evict the petitioner from the premises as per law. "

9. With the above direction, the writ petitions are disposed of. No cost.

Consequently, connected miscellaneous petition is closed.

02.03.2023

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To

1. The Commissioner
Hindu Religious and Charitable Endowments
Department,
Uthamar Gandhi Salai,
Nungambakkam, Chennai-34.

2. The Joint Commissioner
Hindu Religious and Charitable Endowments
Department, Sathuvachari Road, Vellore-9.

3. The Assistant Commissioner,



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Hindu Religious and Charitable Endowments
Department,
Kancheepuram Division,
o/o.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Kancheepuram.

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4. The Executive Officer
Arulmighu Egambaranathar Temple and
Devasthanam, Kancheepuram.

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