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W.P.No.3619 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.3619 of 2023

and

W.M.P.No.3696 of 2023

J.Gunasekaran

... Petitioner

Vs.

1.The Commissioner,
Hindu Religious & Charitable Endowment Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam, Chennai – 600 034.

2.The Joint Commissioner,
Hindu Religious & Charitable Endowment Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam, Chennai – 600 034.

3.The Assistant Commissioner,
Hindu Religious & Charitable Endowment Department,
No.127, Yadhaval Street, Padi,
Chennai – 600 050.

4.The Executive Officer,
Arulmigu Agatheeswarar Thirukoil,
Villivakkam, Chennai – 600 049.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records relating to the impugned order dated 16.12.2022 in R.C.No.59192/2022 D2 passed by the first respondent by quashing the same.



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For Petitioner : Mr.R.Manickavel

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For Respondents : Mr.N.R.R.Arun Natarajan, for RR1 to 3
Special Government Pleader (HR & CE)

ORDER

This Writ petition has been filed challenging the order passed under Section 21 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, directing the petitioner to deposit entire arrears amount of Rs.18.50 lakhs and the consequential direction to de-seal the premises only on the payment of amount.

2. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader for the respondents 1 to 3.

3. It is the contention of the petitioner that he has paid the entire amount.

4. Earlier a revision has been filed in R.P.No.263/2016 D2 challenging the order passed under Section 78 of the H.R and C.E. Act. The above revision was allowed since the petitioner has paid arrears till 31.01.2017. Thereafter, the revision was allowed on following condition:

*“6. As the petitioner has prayed time to settle the arrears,
he was directed to deposit the outstanding arrears before*



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31.01.2017 along with current monthly rent vide order dated 02.12.2016. Accordingly the petitioner has paid the entire arrears on 21.12.2016 and filed a memo to that effect. In the memo, the petitioner has prayed to recognize him as a tenant under the temple and also has given undertaking to pay the monthly rent regularly every month and fair rent as fixed by the Government in future.

7. The said undertaking has been taken on record. It is learnt that the petitioner has constructed 5 shops and 3 residential houses in the said property and let out 5 shops and 1 house to 3rd parties. He is earning Rs.36,000/- as monthly rent by subleasing the property, but paying only Rs.8,605/- as rent to the temple. The temple has revised the rent at Rs.23,530/- with effect from 01.07.2016 as per the Sec 34A of the Act. Hence, if the petitioner agrees to pay the revised rent, he may be allowed to occupy the property subject to the following conditions:

1.The petitioner should pay Rs.24,000/- per month towards damages for use and occupation of the property with an annual enhancement at the rate of 10%.

2.He should pay 10 months damages as advance to safeguard the temple from any default in payment of damages in future.

3.He should not make any additions or alterations in the existing structure.

4.The damages should be paid on or before 5th of every month.

If the petitioner fails to comply with the above condition, the



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order passed by the Joint Commissioner, Chennai shall be given effect. The Revision Petition is hereby disposed of with the above directions.”

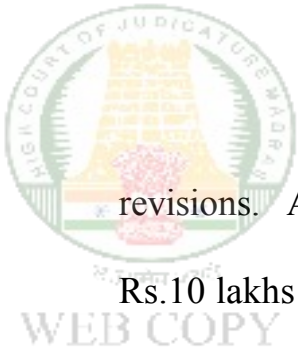
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5. For the subsequent period, as the arrears has not been paid by the petitioner, the authorities have sealed the premises. Challenging the same, the another has been preferred in which the petitioner was directed to pay the entire arrears amount. Challenging the same, the present writ petition has been filed.

6. Though the petitioner has paid arrears as indicated in the earlier revision order in R.P.No.263/2016 D2, thereafter from 2017, he has not paid the amount.

7. Learned counsel appearing for the petitioner would submit that he is ready to deposit Rs.5 lakhs now.

8. Considering the fact that the petitioner has constructed 5 shops and 3 residential houses in the property and let out 5 shops and 1 house to 3rd parties and is earning Rs.36,000/- as monthly rent by subleasing the property he cannot be permitted to squat on the property. When a person is enjoying the temple property, it is the duty of the person to pay the rents regularly and they cannot take undue advantage to deny the income to the temple by filing various writ petitions and



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revisions. As the arrears has not been paid, the petitioner is now willing to deposit Rs.10 lakhs and submit that remaining amount would be paid in instalments.

9. Considering the submission of the writ petitioner, this Court directs the petitioner to deposit a sum of Rs.10 lakhs on or before 30 days from today. On such deposit, the respondents are directed to de-seal the premises and the remaining arrears amount shall be paid within a period of six months. In the event, the petitioner fails to pay the amount, the respondents may straight away evict the petitioner from the premises, without any further orders. If the petitioner pays entire amount, the respondents may regularise his tenancy provided petitioner continues to pay rent without default.

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

09.02.2023

Index :Yes/No

Neutral Citation: Yes / No

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N.SATHISH KUMAR, J.

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