



WEB COPY



W.P.No.2986 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2023

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THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

W.P.No.2986 of 2023
and W.M.P.Nos.3090 & 3095 of 2023

1.Mansukh H.Sukhadia
2.Kinzal M. Sukhadia

.. Petitioners

Versus

1.The Commissioner,
Hindu Religious and Endowments Board,
Uttamar Gandhi Salai,
Nungambakkam,
Chennai – 600 034.

2.The Joint Commissioner,
Hindu Religious and Endowments Board,
Uttamar Gandhi Salai,
Nungambakkam,
Chennai – 600 034.

3.The Executive Officer,
Arulmigu Ekambareswarar Temple,
No.315, Mint Street,
Chennai – 600 013.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining



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to the impugned order in Na.Ka.28/2023 dated 20.01.2023 passed by the 3rd respondent and quash the same and consequently, direct the respondents to fix fair rent in accordance with law.

For Petitioners : Mr.K.Ramu

For Respondents

For RR1 & 2 : Mr.M.Bindran
Additional Government Pleader

For R3 : Mr.K.Karthikeyan
Government Advocate

ORDER

This writ petition has been filed challenging the impugned notice dated 20.01.2023 claiming the arrears of rent to the tune of Rs.25,39,200/- and direction to fix a fair rent.

2. The main ground in this writ petition is that the impugned notice has been challenged in W.P.No.19472 of 2019 and this Court specifically directed the respondents to pass final orders fixing the fair rent. However, no fair rent was fixed whereas the arrears has been claimed arbitrarily without fixing any fair rent. Hence, the notice dated 20.01.2023 has been challenged.

3. The learned counsel for the respondent would submit that the fair



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rent has been fixed on 30.01.2023 and they passed an order and fair rent proceedings have been communicated to the petitioner which is not disputed by the petitioner counsel. As the fair rent has been fixed, the petitioner may challenge the same in the manner known to law by way of filing an appeal before the Joint Commissioner under Section 21A of the Act.

4. At this stage, the learned counsel for the petitioners would submit that the fair rent proceedings served on them indicates that the respondent has fixed the fair rent retrospectively which is bad in law. According to him, in light of the judgment reported in **2018 (3) MWN (Civil) 167** in the case of **(M.Gurusamy Nadar Vs. The Commissioner, Hindu Religious and Charitable Endowment Department)** wherein this Court held that the fair rent cannot be fixed retrospectively. No doubt, this Court has held that the fair rent cannot fixed retrospectively and now the fair rent has been fixed and copy has been served. Now, the revision remedy is very much available.

5. In such view of the matter, the petitioner may canvas all his points before the concerned authority by way of filing an appeal/revision as the



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case may be. While disposing the appeal/revision, the authorities may take into consideration the position of law declared by this Court as to whether the fair rent can be fixed retrospectively.

6. With the above direction, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

07.02.2023

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Index : Yes / No

Speaking Order : Yes / No

To

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N.SATHISH KUMAR, J.
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