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W.P.No.4766 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.4766 of 2023
and WMP.No.4771 of 2023

Rajesh Gupta

... Petitioner

Versus

1. The Commissioner,
HR & CE Department,
Nungambakkam, Chennai.

2. The Joint Commissioner,
HR & CE Department,
Nungambakkam, Chennai-34.

3. The Assistant Commissioner,
HR & CE,
Ambattur, Chennai-50.

4. The Executive Officer,
Arulmigu Payandiamman Koil,
Nadukuppam, Chennai-5.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the Respondents to consider the representation dated 21.01.2023 to fix the fair rent in accordance with S.34-A of the HR and CE Act for the property admeasuring 5100 sq.ft of land comprised in Door No.133/71 santhome High Road block no. 4595 / 35 Mylapore.



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For Petitioner : Mr.R.Rajarajan
For Respondents : Mr.N.R.R.Arun Natarajan, SGP
RR1 to 4 (HR & CE)

ORDER

This writ petition has been filed seeking a direction to the Respondents to consider the representation dated 21.01.2023 to fix the fair rent in accordance with S.34-A of the HR and CE Act for the property ad-measuring 5100 sq.ft of land comprised in Door No.133/71 Santhome High Road, Block no. 4595 / 35 Mylapore.

2. It is the grievance of the petitioner that the property measuring an extent of 5100 sq. ft. comprised in Door No.133/71 Santhome High Road, Block No.4595/35, Mylapore belongs to the 4th respondent temple. Originally, the above said land was leased out to the petitioner's father vide sale deed dated 16.09.1970 bearing document No.1757/1970. After his death, the petitioner and his mother and daughters are continued as tenants under 4th respondent temple and they were continuously paying the rent to the temple. Such being the factual position, the 4th respondent without following the procedure contemplated under Section 34A of Tamil Nadu HR & CE Act, sent a notice to the petitioners father



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on 25.11.2016, fixing the monthly rent for a sum of Rs.3,34,690/- The petitioner informed to the official respondents that his father died in the year 2003 itself and therefore, requested to cause a fresh notice for filing objections. On the other hand, the respondents have initiated proceedings for eviction under 78(2) of the HR & CE Act against the petitioner and the same is pending. In the meanwhile, the petitioner has made a representation dated 21.01.2023 to the respondents to fix a fair rent and the same is not considered so far and hence, the present writ petition.

3. The learned Special Government Pleader, on instructions, submitted that the first respondent has fixed the fair rent under Section 34A of Tamil Nadu HR & CE Act in respect of the subject property for a sum of Rs.3,34,690/- and the same was communicated to the petitioner, but, he fails to pay the rent and therefore, the respondents have initiated proceedings for eviction under 78(2) of the HR & CE Act against the petitioner and the same is pending. At this stage, consideration of representation does not arise. According to the learned counsel, a sum of Rs.1,12,18,000/- (Rupees one crore twelve thousand and eighteen thousand only) towards arrears is payable by the petitioner.



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4. The learned counsel for the petitioner submitted that the petitioner is ready to pay 50% of the arrears amount to the 4th respondent within a period of two months and this Court may direct the respondents that till such time, the petitioner will not be evicted.

5. In reply, the learned Special Government Pleader submitted that if the petitioner will pay the monthly rent regularly, the respondents will not be disturbed him.

6. Heard the learned counsel for the petitioner as well as the learned Special Government Pleader appearing on behalf of the respondents and perused the materials available on record.

7. Considering the fact that the first respondent has already found fault with the fixation of rent in respect of the temple properties as it is not according to law and directed the concerned authorities to re-fix the fair rent, for which, the third respondent has issued notice to the petitioner. However, the petitioner is not challenging the proceedings of the third respondent and filed a writ petition seeking a direction to consider his representation, which does not



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considerable at this stage. According to the respondents, now the petitioner has to pay a sum of Rs.1,12,18,000/- towards arrears of rent and the petitioner is also agreed before this Court to pay the said arrears and seeks time.

8. In view of the submission made by the petitioner, this Court passes the following order:

(i) The petitioner is directed to pay at 50% of the arrears of rent to the third respondent in respect of the subject temple property within a period of two months from the date of receipt of a copy of this order;

(ii) the petitioner is also directed to pay the monthly rent without any default; and

(iii) if the petitioner fails to pay the arrears of rent and monthly rent, the respondents shall take action as per law.

9. With the above directions, the writ petition is disposed of. No costs.

Consequently, connected miscellaneous petition is also closed.

20.02.2023

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N.SATHISH KUMAR,J.

Rli

To

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