



WEB COPY



W.P.No.7260 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2023

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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

W.P.No.7260 of 2023

and

W.M.P.No.7304 of 2023

J.Lalith Kumar
Son of Joharilal
No.3/1, Ella Muthamman Kovil Street
Vadapalani
Chennai 600 026.

... Petitioner

Vs.

1.The Commissioner
Hindu Religious Endowment Department
Nungambakkam, Chennai 600 034.

2.The Joint Commissioner
Hindu Religious Endowment Department
Nungambakkam, Chennai 600 034.

3.The Executive Officer
Aulmigu Vengeeswarar, Alagarperumal
and Nagathamman Temple
Vadapalani, Chennai 600 026.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned demand notice dated 30.01.2023 issued by the 3rd Respondent vide



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reference for the property bearing No.3/1, originally Ella Muthamman Kovil Street and now in 100 feet road, Vadapalani, Chenani 600 026 and quash the same and consequently direct the 1st Respondent to receive the appeal as directed by this Court in its order dated 22.03.2022 passed in WP.No.6233 of 2022 and dispose of the same after affording opportunity of personal hearing to the petitioner and the 3rd Respondent within a time frame as fixed by this Court.

For Petitioner : Mr.R.Abdul Mubeen
for Mr.K.Ezhumalai

For Respondents : Mr.N.R.R.Arun Natarajan
Special Government Pleader

ORDER

This Writ Petition has been filed to call for the records pertaining to the impugned demand notice dated 30.01.2023 issued by the 3rd Respondent vide reference for the property bearing No.3/1, originally Ella Muthamman Kovil Street and now in 100 feet road, Vadapalani, Chenani 600 026 and quash the same and consequently direct the 1st Respondent to receive the appeal as directed by this Court in its order dated 22.03.2022 passed in WP.No.6233 of 2022 and dispose of the same after affording opportunity of personal hearing to the petitioner and the 3rd Respondent.



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2.Heard the learned counsel for the Petitioner and the learned Special Government Pleader for Respondents.

3.Based upon the the instructions, the learned Special Government Pleader would contend that after the disposal of the Petition in W.P.No.6233, 6242, 6376 of 2022 dated 22.03.2022, they furnished the details of the original rent, subsequent rent, cost of the land and calculation sheet for fixing the fair rent and the same was duly served upon the Petitioner on 23.06.2022 and further he would contend that the averment made in the affidavit that the Petitioner was not put on notice is factually incorrect and suppression of material facts.

4.Learned counsel for the Petitioner would contend that pursuant to the orders passed by this Court as stated supra, he has filed statutory Appeal before the Commissioner under Section 34 of the Tamil Nadu Hindu Religious and Charitable Endowments Act. However, the same was returned with an endorsement on 15.06.2022 for certain compliance and again on re-presentation, the same returned on 30.06.2022. The first return was made as under:

“As per the order dated 29.04.2022 of the Hon'ble High Court



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made in W.P.No.11581 of 2022 objections should be filed before the Executive Officer of the above Temple.”

The second return was made as under:

“No appeal shall be entertained under sub-Section (3) unless it is accompanied by satisfactory proof of deposit of the rent so fixed or refixed, in the account of the religious institution concerned and such amount shall be adjusted towards the rent amount payable by the lessee as per the order passed in the appeal”

Thereafter, he had filed objection before Executive Officer viz., the 3rd Respondent herein, who had issued the impugned order of demand, after going through the order passed in the above Writ Petition and the copies produced by the learned Special Government Pleader, the Respondent have duly complied with the furnishing of working sheet of the fair rent and also calculation of the arrears of the rent and the same was duly served upon the Petitioner and hence, the Commissioner can take the Appeal on file.

5.However, learned Special Government Pleader would draw my attention to the statutory deposit, which has to be made before entertaining the appeal and would submit that as per the Executive Officer/R3, arrear comes to Rs.28,21,695/-.



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6.Learned counsel for the Petitioner would draw my attention to the judgment of this Court made in WP.No.14472 to 14476 of 2013, wherein it was observed that before fixing the fair rent, an opportunity of hearing to be given to the parties.

7.Accordingly, I find that the order passed in the above Writ Petition is equally applicable to the facts and circumstances of the present case and hence, without going to the other aspects, I am inclined to allow this Petition to the limited extent that the Appeal filed by the Petitioner before the Commissioner under Section 34 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, pursuant to the order of this Court made in WP.No.6233 of 2022 and batch cases dated 22.03.2022, shall be numbered and disposed of on merits, on condition that the Petitioner shall pay a sum of Rs.10,00,000/-.

8.The point raised with regard to fixation of fair rent and calculation of working sheet and opportunity of being heard shall be draw into account by the Appellate Authority. Time for payment is three weeks from the date of receipt of a copy of this order.



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9. In fine, this Writ Petition is disposed of to the extent indicated

above. No costs. Consequently, connected Miscellaneous Petition is closed.

17.03.2023

Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order

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RMT.TEEKAA RAMAN.J,

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