



WMP No.8520 of 2023
in WMP No.8316 of 2023

Reserved on: 20.03.2023
Pronounced on: 23.03.2023

WMP No.8520 of 2023
in
WP No.8316 of 2023

RMT.TEEKAA RAMAN, J.,

Mrs.S.Mythreye Chandru, learned Special Government Pleader, takes notice on behalf of the 1st respondent.

2. Mr.N.R.R.Arun Natarajan, learned Special Government Pleader (HR&CE) takes notice on behalf of respondents 2 to 5.

3. Learned counsel for the petitioner could contend that petitioner's brother was the original lessee, as per the proceedings of the 2nd respondent in the year 1991 and fair rent has been fixed. Thereafter, he has sent a letter to the temple authorities to change the tenancy in favour of the petitioner herein and the petitioner's brother died on 18.02.1998 and also relied upon the communication of the 2nd respondent-Joint Commissioner on 20.12.1998, for recommending the change of name.



WMP No.8520 of 2023
in WMP No.8316 of 2023

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4. Learned counsel for the petitioner further contended that in the year 2004, notice was issued against the said petitioner's brother, who died in the year 1998, for revising the rent. Hence, the petitioner herein moved the revision before the 2nd respondent. The said revision was dismissed and hence, the 3rd respondent initiated proceedings under Section 78(2) of the HR&CE Act, treating the petitioner as an encroacher and fixed the amount. Therefore, the petitioner filed a revision before the 2nd respondent in R.P No.85 of 2015 and the same was dismissed, against which, he preferred an appeal under Section 114(4) of HR&CE Act and the same is pending. At this juncture, it is alleged that the officials of the 4th and 5th respondents have sealed the godown on 28.02.2023 and hence, the writ petition.

5. Petitioner counsel is heard.

6. Learned Special Government Pleader (HR&CE) drew my attention to the order passed by the 2nd respondent/Commissioner in RP.No.85 of 2015 dated 07.10.2015, wherein I find that as against the



WMP No.8520 of 2023
in WMP No.8316 of 2023

fair rent fixed by the temple authorities as early as on 1995, he filed an appeal against the fixation of fair rent in the year 2009, as directed by the High Court. Since the appeal papers were not in order, it was returned to the petitioner for rectification of defects and thereafter, the same was not represented.

7. Based upon the above findings in the said Revision Petition, the learned Special Government Pleader (HR&CE) could contend that since no appeal has been filed against the fair rent, a calculation sheet was submitted by him on behalf of the temple, wherein, the arrears of rent as on 28.02.2023 is Rs.60,88,559/-.

8. Per contra, learned counsel for the petitioner contended that appeal against such order is pending with the Government.

9. I find that there are two issues involved in the above said Revision Petition. One is fixation of fair rent and other one is non-payment of rent fixed by the Government.



WMP No.8520 of 2023
in WMP No.8316 of 2023

WEB COPY

10. As against the fair rent fixed in the year 2009, though the petitioner has filed an appeal, the same was returned and it was not represented. So far it is not known whether the appeal has been taken up or not. Despite a specific question put to the learned counsel for the petitioner, he is unable to answer the same.

11. Hence, I find that as against the fair rent fixed by the temple in the 2009, there is no appeal and the calculation submitted by the learned Special Government Pleader, appears to be just and proper. Furthermore, the G.O.Ms.No.298 dated 20.07.2010, is not applicable because the said Government Order applies to the property used for residential purpose, whereas, in the present case, the petition mentioned premises is used for commercial purposes. Therefore, I find that there is no prima facie case in favour of the petitioner, for the grant of relief of interim injunction.

12. Further, though, this Court has asked the learned counsel for the petitioner as to how much amount he could deposit, he has come forward with the plea of Rs.5,00,000/- as against the arrears of Rs.60,88,559/-, which this Court finds is not in the best interest of the



WMP No.8520 of 2023
in WMP No.8316 of 2023

WEB COPY

temple and also appears to be very meager, as compared to the arrears of rent of whopping amount of Rs.60,88,559/-.

13. In view of the above, I am not inclined to grant the relief of interim injunction and WMP No.8520 of 2023, stands dismissed.

23.03.2023
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WMP No.8520 of 2023
in WMP No.8316 of 2023

RMT.TEEKAA RAMAN, J.,

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Pre-delivery order in
WMP No.8520 of 2023
in WP No.8316 of 2023

23.03.2023