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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.06.2023

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.13932 of 2023

S.Rathinavel

Petitioner

vs.

1.The Commissioner,
HR & CE, Administration Department,
Mahatma Gandhi Road,
Nungambakkam,
Chennai – 600 034.

2.The Executive Officer,
Arulmighu Veerabathraswamy Temple,
Annai Indira Gandhi Salai @ Nellikuda Street,
Kanchipuram,
Kanchipuram District.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned proceedings dated 06.04.2022 issued by the 2nd respondent and quash the same and consequently direct the 2nd respondent to fix the Fair Rent after providing due opportunity to the petitioner to raise the objections on his behalf.

For Petitioner : Ms.S.Magarani

For Respondents : Mr.K.Karthikeyan
Government Advocate



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ORDER

This writ petition has been filed challenging the proceedings of the 2nd respondent dated 06.04.2022 fixing the fair rent for the premises which is in occupation of the petitioner.

2.Heard Ms.S.Magarani, learned counsel appearing on behalf of the petitioner and Mr.K.Karthikeyan, learned Government Advocate appearing on behalf of the respondents.

3.The main ground that was urged by the learned counsel for the petitioner is that the fair rent has been fixed in gross violation of the relevant Government Orders and the guidelines that have been prescribed by the Government. It was contended that the estimation of the ground rent was done even without taking into consideration the guideline value and applying the proper multiplier method. In view of the same, the learned counsel for the petitioner submitted that the proceedings of the 2nd respondent warrants the interference of this Court and that the matter has to be remanded back to the file of the 2nd respondent. The learned counsel in order to substantiate her submission relied upon by the judgment of this Court in ***R.Jaganathan vs.***



Commissioner, HR & CE Administration Department, Mahatma Gandhi

Road, Nungambakkam, Chennai – 600 034 and others reported in 2023 1

CTC 737.

4.Per contra, the learned Government Advocate appearing on behalf of the respondents submitted that the present writ petition is not maintainable, since there is an efficacious alternative remedy available under Section 34-A of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (herein after referred to as “the Act”). The learned Government Advocate further submitted that the order was passed during April 2022 and thereafter, since the rent was not paid, the petitioner was treated as an encroacher and proceedings have been initiated under Section 78 of the Act. It is under these circumstances, the present writ petition has been filed before this Court to scuttle the steps taken by the respondents to proceed further with the eviction proceedings.

5.This Court has carefully considered the submissions made on either side and also the materials available on record.

6.The main ground that has been urged by the learned counsel for the petitioner is that the fair rent has been fixed without following the relevant



Government Orders and the guidelines issued by the Government. In the considered view of this Court, the determination of the fair rent by the 2nd respondent is subject to an efficacious and alternative remedy under Section 34-A (3) of the Act. If such an appeal is filed before the Commissioner, the aggrieved person can always put forth the grounds of challenge regarding the fair rent that is fixed for the premises in occupation of the concerned person. The petitioner for reasons best known to him has not chosen to file an appeal before the Commissioner.

7. Where there is an efficacious alternative remedy provided under the enactment, the writ Court will be very slow to entertain the writ petition unless the Court finds that the order has been passed in violation of principles of natural justice or the authority who passed the order lacks jurisdiction or there is a patent illegality or arbitrariness in exercise of jurisdiction. The case in hand does not fall under any of these categories. The grievance that has been expressed by the petitioner can very well be put forth by way of filing an appeal before the Commissioner of HR & CE Department. In view of the same, this Court is not inclined to entertain this writ petition on the ground of availability of an efficacious alternative remedy by way of an appeal for the petitioner.



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8. The judgment that was relied upon by the learned counsel for the petitioner shows that the order passed by the Commissioner in appeal was put to challenge in the writ petition. This judgment will not apply to the facts of the present case, since the reported judgment was a case where the aggrieved person had exercised his right of appeal and thereafter, filed the writ petition. Whereas, in the case in hand, the alternative remedy has not been availed and straight away the proceedings of the 2nd respondent has been put to challenge in this writ petition. Hence, the judgment that was relied upon by the learned counsel for the petitioner does not in any way help the case of the petitioner.

9. In the light of the above discussion, this Court is not inclined to entertain the writ petition and if the law so permits, it will always be left open to the petitioner to avail the appellate remedy as provided under Section 34 (A) of the act.

10. Accordingly, this writ petition stands dismissed. No Costs.

01.06.2023

Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order



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Neutral Citation Case : Yes/No
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N. ANAND VENKATESH, J.

SSR

To

1. The Commissioner,
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