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W.P.No.14688 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 06.04.2023

PRONOUNCED ON : 12.04.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.14688 of 2022
and
W.M.P.Nos.13883 & 13884 of 2022

K.Kasturi

... Petitioner

Vs.

1.The Joint Commissioner,
O/o. Joint Commissioner,
Chennai Zone – 2,
Hindu Religious & Charitable Endowments Department,
Mylapore, Chennai – 600 004.

2.The Assistant Commissioner,
O/o. Assistant Commissioner,
Hindu Religious & Charitable Endowments Department,
Padi, Chennai – 600 040.

3.The Executive Officer,
Arulmighu Sathiya Varadharaja Perumal Thirukoil,
Arumbakkam,
Chennai – 600 106.
Located in Arulmigu Egambarareswar Thirukoil,
Aminjikarai, Chennai – 600 029.

... Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for record of the 1st respondent and quash the order of attachment dated 21.03.2022 passed by the 1st respondent served on 30.05.2022 against the petitioner in respect of the lease site in T.S.No.23, Old Sur.No.29, Block No.29, Aminjikarai, Aminjikarai Taluk, Chennai District bearing New Door No.7, Prasanna Vinayagar Koil Street, Aminjikarai, Chennai 600029 as ultra vires, arbitrary, unconstitutional, illegal, invalid and against all principle of law and natural justice.

For Petitioner	: Mr.N.R.Anantha Rama Krishnan
For R1 & R2	: Mr.K.Kathikeyan Government Advocate [For H.R.&.C.E]
For R3	: Mr.P.Wilson For M/s.A.S.Kailasan & Associates

ORDER

The writ on hand has been instituted to quash the order of attachment dated 21.03.2022 passed by the first respondent against the writ petitioner in respect of the third respondent-temple land.



2. The writ petitioner states that she had taken on lease of a vacant site to an extent of 2880 Sq. ft. comprised in T.S.No.23, Old Sur.No.29, Block No.29, Aminjikai, Aminjikai Taluk, Chennai District bearing New Door No.7, Prasanna Vinayagar Koil Street, Aminjikai, Chennai 600029, within the Corporation limits of Chennai from the third respondent-temple, initially under registered lease agreement dated 14.09.1990 in document Nos.5652 and 5653 of 1990. The initial lease period was 5 years, which was renewed for a further period. The petitioner states that the renewal of lease was unregistered and the lease agreements were only in respect of the vacant land. The petitioner had put up superstructure over the temple land from and out of her own funds. She had raised ground plus two floors bearing old Door No.6, then Door No.5 and presently New Door.No.7, Prasanna Vinayagar Koil Street, Aminjikai, Chennai – 600 029 in the lease site. The writ petitioner is using the building for commercial purposes and earning income from and out of the building. The petitioner is paying property tax. The petitioner states that the third respondent on 18.09.1990 had issued No Objection Certificate in favour of the petitioner for constructing superstructure in the lease land and to obtain electricity and sewage connections.



3. The third respondent issued notice dated 26.11.2018 to the writ petitioner to fix fair rent and asked the petitioner to submit her objections, if any, with reference to the calculation sheet along with the notice. The notice states that the Temple Administration proposed to fix the fair rent at the rate of Rs.27,510/- as monthly rent with effect from 01.11.2001 including the superstructure built by the petitioner in the temple land. The proposed enhancement of 15% on the monthly rent in every three years is also stated. The value of the building was worked at Rs.25,47,812/- and on the basis of the value, the monthly rent was tentatively arrived.

4. The petitioner states that the superstructure constructed by the petitioner is not part of the lease and therefore, the third respondent-temple is not entitled to claim any rent for the superstructure. Accordingly, the petitioner sent a letter dated 05.12.2018 stating that the lease was granted in respect of the vacant site and the building did not belong to the temple. Therefore, the Authorities cannot fix the fair rent in respect of the building.



5. The writ petitioner met the third respondent in person on 06.12.2018 along with her counsel and submitted her objections. The petitioner produced the Building Plan permit, property tax assessment etc., and explained that the superstructure belonging to her cannot be assessed for fixation of fair rent. However, the third respondent issued another notice on 31.03.2022 claiming the rental arrears of Rs.1,06,59,333/-. The third respondent has stated that the lease was not extended and therefore, the petitioner is an encroacher and action will be initiated under Sections 78 and 79 of the Hindu Religious and Charitable Endowments Act for the purpose of evicting the petitioner from the site, if the arrears of rent of Rs.1,06,59,333/- is not paid within 15 days. The petitioner has called upon the third respondent to complete the legal formalities in the matter of fixing the lease rent under Section 34-A of the Hindu Religious and Charitable Endowments Act. Without considering the objection, the third respondent has issued further notice dated 20.05.2022 holding that the lease was cancelled with effect from 30.04.2022 and calling upon the petitioner to hand over the lease site on or before 15.05.2022. The petitioner received the said notice on 15.05.2022. Therefore, handing over the site before 15.05.2022 was impossible.



6. The learned counsel for the petitioner states that without giving any opportunity to the writ petitioner, the proceedings dated 30.05.2023 was issued enclosing the copy of the attachment order dated 21.03.2022 of the first respondent passed against the writ petitioner.

7. The learned counsel for the petitioner mainly contended that the procedures contemplated under Section 34-A of the Hindu Religious and Charitable Endowments Act for fixation of fair rent has not been followed by the Authorities Competent. In respect of the earlier writ petition filed by the writ petitioner in WP No.14685 of 2022, challenging the notice dated 20.05.2022 was dismissed and the petitioner filed WA No.560 of 2023 and the Hon'ble Division bench of this Court has passed an interim order to maintain status quo. The land alone belongs to the temple and the superstructure was constructed by the petitioner from and out of her own funds and therefore, the third respondent has no authority to claim fair rent in respect of the superstructure. The fair rent now assessed includes the superstructure and therefore, the fair rent is to be revised only in respect of the land belonging to the temple.



8. The learned counsel for the petitioner states that the proceedings of the Commissioner dated 10.03.2022 has not been followed by the third respondent. Thus, the attachment order dated 21.03.2022 is arbitrary and is in violation of the principles of natural justice. In the absence of proper fixation of fair rent, the petitioner may not be in a position to settle the same. Therefore, the order is to be set aside and the fair rent is to be fixed only in respect of the land, which belongs to the temple, by affording an opportunity to the writ petitioner.

9. The learned Government Advocate appearing on behalf of the Hindu Religious and Charitable Endowments Department mainly contended that once the land is leased out in favour of a person by the temple, and a superstructure is constructed at the choice of the Lessee, then the Lessee cannot claim ownership in respect of the superstructure. It is for the convenience of the Lessee, the superstructure was made. Since the land belongs to the temple, the assessment of rent is to be made including the superstructure standing on the land and therefore, the claim of the petitioner is untenable.



10. It is contended that the land includes the superstructure in the land. That apart, there was a old superstructure, which was in the subject land and the said old superstructure was demolished and the petitioner has constructed a new superstructure and therefore, the petitioner is not entitled to claim any exemption from fixation fair rent for the land including the superstructure. Superstructure has been made at the choice of the petitioner for their convenience and once it is constructed in the land belonging to the temple, then the temple has to assess the rent inclusive of superstructure and thus, the petitioner cannot seek any exemption from payment of fair rent. The petitioner has not paid rent for the past more than 2-1/2 years and therefore, the petitioner as of now is to be construed as an encroacher. The Authorities Competent have to initiate action under Section 78 of the Hindu Religious and Charitable Endowments Act, to evict the petitioner, since the petitioner is not holding any valid lease in respect of the temple property. More-so, the petitioner is not paying the fair rent fixed by the Competent Authorities under Section 34-A of the Hindu Religious and Charitable Endowments Act.



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11. The learned Government Advocate appearing on behalf of the respondents 1 and 2 contended that the procedures contemplated under Section 34-A of the Hindu Religious and Charitable Endowments Act, was followed by the Authorities, while fixing the lease rent and notice was issued to the writ petitioner for the purpose of filing their objections. The petitioner filed her objections and thereafter, a final decision was taken and the arrears of rent to be paid was also determined and communicated to the writ petitioner. Instead of paying the arrears of rent, the petitioner has chosen to file the present writ petition challenging the said order and the consequential order of attachment, which was passed by the Competent Authorities under Section 79-C of the Hindu Religious and Charitable Endowments Act. The Authorities Competent are empowered to attach the property in the event of non-payment of lease rent to the temple under Section 79-C of the Hindu Religious and Charitable Endowments Act. That being the power conferred on the Authorities, the petitioner has wrongly pleaded that the fair rent has not been fixed in accordance with the provisions of the Hindu Religious and Charitable Endowments Act.



12. The learned Government Advocate appearing on behalf of the respondents 1 and 2 states that the notice for fixation of the fair rent was issued to the petitioner in proceedings dated 26.11.2018. Along with the notice, the statement of the proposed fair rent also has been given in detail. In respect of the notice issued for fixation of fair rent, the petitioner also submitted her objections on 05.12.2018. Thereafter on 06.12.2018, the petitioner through her lawyer sent a notice to the third respondent, raising objections. After providing an opportunity, the third respondent issued a notice in proceedings dated 31.03.2022, calculating the arrears of rent to be paid and asked the petitioner to pay the arrears of rent, failing which, action will be initiated under Sections 78 and 79 of the Hindu Religious and Charitable Endowments Act.

13. The rental value per month has been fixed as Rs.27,510/- by the Competent Authorities with effect from 01.11.2001. As per the Government Orders, 15% increase in monthly rent is to be made once in three years. Therefore, the Authorities Competent have calculated the entire rental arrears to be paid by the petitioner and the calculation sheet was also communicated to the writ petitioner along with the notice dated 26.11.2018.



14. Based on the calculation sheet, the Authorities subsequently asked the petitioner to pay the arrears of rent. The objections raised by the petitioner was taken into consideration and the Authorities have decided to fix the rent as per the notice dated 26.11.2018 and accordingly, asked the petitioner to pay the arrears of rent. Since the petitioner has not paid the arrears of rent as demanded by the Temple Authorities, the Assistant Commissioner, Hindu Religious and Charitable Endowments Department initiated action under Section 79-C of the Hindu Religious and Charitable Endowments Act to recover the arrears of rent. The attachment notice was also issued, which is under challenge in the present writ petition.

15. The learned counsel appearing on behalf of the third respondent-Temple made a submission that the lease expired on 11.09.2008 itself. After the expiry of the lease no renewal was made between the temple and the petitioner. An order of termination was passed by the Competent Authorities on 30.04.2022. As of now, there is no lease existing between the petitioner and the Temple Administration and therefore, the petitioner is an encroacher and liable to be evicted under Section 78 of the Hindu Religious



and Charitable Endowments Act.

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16. In respect of arrears of rent, the Competent Authorities are empowered to recover the arrears of rent by invoking Section 79-C of the Hindu Religious and Charitable Endowments Act. The fair rent was determined under Section 34-A of the Hindu Religious and Charitable Endowments Act and it was determined after giving notice to the writ petitioner and receiving objections from her. Therefore, it is not as if no opportunity was granted to the writ petitioner and the petitioner's objections were considered and the proposed fixation of rent was directed to be calculated and arrears of rent was asked to be paid by the petitioner. Thus, the fair rent was determined in accordance with the provisions of the Hindu Religious and Charitable Endowments Act. The lease expired on 11.09.2008 and an order of termination was passed on 30.04.2022 and for all these reasons, the Authorities now initiated action to recover the arrears of rent by invoking Section 79-C of the Hindu Religious and Charitable Endowments Act. Thus, the present writ petition is devoid of merits and the same is to be rejected.



17. The learned counsel for the petitioner relied on the judgment of the Hon'ble Division Bench of this Court in **WA (MD) No.786 of 2022** dated 11.08.2022, which reads as under:

“15. Even the order of the Commissioner was not followed while passing the fresh order. It is to be seen that fair rent has been arrived at Rs.78,500/-. The calculation sheet gives an indication that the value of the building has also been taken into account for purpose of calculation of fair rent. It is admitted that no portion of the building was constructed by the respondents. The fair rent cannot be fixed for the building constructed by the tenant / lessee. Consequently, the fair rent was fixed by deducting a sum of Rs.35,551/- being the rent payable as per the rate before 2017. The actual rent paid by the lessee / the current rent need not be deducted from the fair rent calculated by the respondents. Therefore, the calculation made also gives an indication that the Committee has not calculated the fair rent in the manner required in law.”



18. In respect of the above judgment, the Hon'ble Division Bench considered the facts of the case and formed an opinion that the Committee has not calculated the fair rent in the manner required by law. An observation made by the Hon'ble Division Bench of this Court that the fair rent cannot be fixed for the building constructed by the tenant, cannot be applied in all cases uniformly, since the facts and circumstances of each case has to be considered.

19. In the present case, the third respondent placed the original Register to establish that the building was existing in the temple land prior to construction of the superstructure by the petitioner. The building, which was in existence, was demolished and thereafter, the new building was constructed. However, the petitioner pleads that she had not demolished the old building but she has taken possession of the vacant land alone. All these factors are also to be taken into consideration and more-so, the Lessee has constructed the building for her convenience and pertinently for commercial purposes in the present case.



20. When the building was constructed by the Lessee for her commercial purposes on the land belonging to the temple, then the land and the building cannot be separated. More-so, in the absence of any specific clause in the Lease Agreement regarding the superstructure or compensation, the land and the building, both belongs to the temple. If at all the petitioner wants to dismantle the building that may be at her choice. So long as the building is situated in the land belonging to the temple, it cannot be separated and more-so any compensation or otherwise can be claimed only if there is a clause in the Lease Agreement and not otherwise.

21. In the absence of any specific clause conferring any right over the superstructure, the Lessee cannot claim any right over such superstructure, since the superstructure is standing on the land that belonging to the temple and more-so, there is no specific agreement between the parties in respect of the building constructed by the Lessee for her earning purpose. However, the Lessee may have the choice to dismantle the building and hand over the vacant land to the temple. But the Lessee cannot claim that the building belongs to her and therefore, she will not vacate the land. If such a stand of the Lessees are accepted by the Courts, then every such Lessee would claim



that he or she has put up superstructure in the land belonging to the temple and therefore, they will not vacate the land belongs to the temple. Thus in the present case, the petitioner has voluntarily constructed the building for commercial purposes and once such a building is constructed in the temple land, the Authorities Competent are bound to claim rent inclusive of the building, since it is constructed on the land belonging to the temple.

22. In other words, the land and the building cannot be separated, in the absence of any specific agreement between the parties. Further, the Lessee cannot claim any right over the building standing on the land belonging to the temple and if such right is recognised, then no Lessee can be evicted from the land belonging to the temple. The voluntary construction made by the Lessee cannot be a ground to claim any right over such superstructure, which was made for her convenience. Either she has to leave the superstructure or can dismantle and take the superstructure as the case may be. Contrarily, Lessee cannot claim any right over the land merely because she has constructed the superstructure.



23. Let us now consider Section 34-A of the Hindu Religious and Charitable Endowments Act, which reads as under:-

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“34-A. Fixation of lease rent.—

The lease rent payable for the lease of immovable property belonging to, or given or endowed for the purpose of, any religious institution, shall be fixed by a Committee consisting of the Joint Commissioner, the Executive Officer or the Trustee or the Chairman of the Board of Trustees, as the case may be, of the religious institution and the District Registrar of the Registration Department in the district concerned taking into account the prevailing market rental value and the guidelines, as may be prescribed and such lease rent shall be refixed in the like manner once in three years by the said Committee.

Explanation.—For the purpose of this subsection, “prevailing market rental value” means the amount of rent paid for similar types of properties situated in the locality where the immovable property of the religious institution is situated.

(2) The Executive Officer or the Trustee or



the Chairman of the Board of Trustees, as the case may be, of the religious institution concerned, shall pass an order fixing the lease rent and intimate the same to the lessee specifying a time within which such lease rent shall be paid.

(3) Any person aggrieved by an order passed under sub-section (2), may, within a period of thirty days from the date of receipt of such order, appeal to the Commissioner, in such form and in such manner, as may be prescribed.

(4) The Commissioner may after giving the person aggrieved an opportunity of being heard, pass such order as he thinks fit.

(5) Any person aggrieved by an order passed by the Commissioner under sub-section (4) may, within ninety days from the date of receipt of such order, prefer a revision petition to the High Court :

Provided that no appeal or revision shall be entertained under sub-section (3) or sub-section (5), as the case may be, unless it is accompanied by satisfactory proof of deposit of the lease rent so fixed or re-fixed, in the account of the religious institution concerned and such amount shall be adjusted towards the lease



amount payable by the lessee as per the order passed in the appeal or revision, as the case may be.”

24. The above provisions unambiguously stipulates that the rent payable for the lease of immovable property belonging to the Religious Institutions shall be fixed by the Committee consisting of the Joint Commissioner, Executive Officer or the Trustee or the Chairman of the Board of Trustees, as the case may be of the Religious Institution and taking into account the prevailing market rental value and guidelines as may be prescribed. The prevailing market rental value means the amount of rent paid for similar types of properties leased in that locality, where the immovable property of the Religious Institution is situated. Sub Section (2) to Section 34-A stipulates that the Executive officer or the Trustee or the Chairman of the Board of Trustees as the case may be of the Religious Institution concerned shall pass an order fixing the lease rent and intimate the same to the Lessees specifying the time within which such lease rent shall be paid.



25. In the present case, fixation of rent as per the market value was decided and intimated to the writ petitioner in proceedings dated 26.11.2018 itself. The fixation was done based on the guidelines issued by the Government. The said proceedings dated 26.11.2018 unambiguously states that the rent of Rs.27,510/- per month was fixed in respect of the property leased out in favour of the petitioner with effect from 01.11.2001. As per the Government guidelines, the rent is to be enhanced at the rate of 15% once in three years. The said determination of fair rent was communicated to the writ petitioner along with the statement of calculation, which is in detail.

26. Therefore, under Section 34-A of the Hindu Religious and Charitable Endowments Act, the Executive Officer has to fix the rent as per the Government guidelines issued. The Executive Officer had provided an opportunity to the writ petitioner to submit her objections before the Office of the third respondent, within a period of seven days. Therefore, under Section 34-A of the Hindu Religious and Charitable Endowments Act, the rent was fixed and it was communicated to the writ petitioner to provide an opportunity to her to submit her objections, within seven days. The



petitioner also sent her objections through registered post on 05.12.2018.

The petitioner submitted detailed objections mainly stating that the superstructure belongs to the petitioner and therefore, the rent fixed for the superstructure is untenable. The Circular of the Commissioner was issued only reiterating the proceedings contemplated under Section 34-A of the Hindu Religious and Charitable Endowments Act.

27. It is relevant to consider that the fixation of rent as per the market value was determined by the Competent Authorities under Section 34-A of the Hindu Religious and Charitable Endowments Act and the said determination was issued to the petitioner in proceedings dated 26.11.2018, thereby providing an opportunity to the petitioner to submit her objections, within a period of seven days. The notice clearly states that any objection if received thereafter will not be taken into consideration. However, the petitioner has sent her objections through registered post in the High Court Building Post Office on 06.12.2018 at 15:48 hours. The lawyer's notice was issued on the same day i.e., on 06.12.2018 to the Executive Officer. In the said notice, the petitioner has informed the Executive officer that the petitioner received the notice on 28.11.2018 and she had visited the Office



of the Executive Officer on 05.12.2018 to submit her objections. Since the Executive Officer refused to acknowledge the receipt, the petitioner sent her objections on the next day. However, the only objection raised by the petitioner is that the building constructed by her is to be excluded from fixation of rent and that was not considered by the Authorities and a final notice was issued to the writ petitioner on 31.03.2022, asking the petitioner to pay the arrears of rent of Rs.1,06,59,333/-, within a period of fifteen days, failing which action will be initiated under Sections 78 and 79 of the Hindu Religious and Charitable Endowments Act.

28. Again the petitioner submitted her objection on 11.04.2022. The said objection was also considered. Even at that point of time, the petitioner committed continuous default in payment of rent for more than two years and the Temple Administration passed an order cancelling the lease on 30.04.2022. Accordingly, the lease was expired on 11.09.2008 and it was cancelled on 30.04.2022. Since the lease was also cancelled, the Temple Authorities initiated action to recover the arrears of rent by invoking Section 79-C of the Hindu Religious and Charitable Endowments Act.



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29. The proceedings dated 20.05.2022 cancelling the lease was challenged by the writ petitioner in WP No.14685 of 2022, which was dismissed by this Court on 22.09.2022 and thereafter, the petitioner filed WA No.560 of 2023, wherein, an interim order of status quo was granted by the Hon'ble Division Bench of this Court. However, in respect of the said notice, this Court is not inclined to consider, since the Writ Appeal is pending. As far as the present writ petition is concerned, the action initiated under Section 79-C of the Hindu Religious and Charitable Endowments Act, has been challenged and the order of attachment dated 21.03.2022 is under challenge in the present writ petition.

30. The proceedings sub judiced before the Division Bench of this Court is regarding the cancellation of lease, which expired on 11.09.2008 itself. As far as the present impugned order is concerned, it is independent in respect of recovery of rent from the petitioner in accordance with the provisions of the Hindu Religious and Charitable Endowments Act.

31. As far as the fixation of rent is concerned, the Authorities Competent have afforded an opportunity to the writ petitioner and the only



objection raised by the petitioner is that the Authorities cannot fix the rent for the superstructure constructed by the petitioner, since it belongs to her.

In this regard, the land and the superstructure cannot be separated, since the existing superstructure in the temple property was demolished and a new building was constructed. Though the petitioner denied that she had not demolished the then existing building, the said factum has not been proved before this Court. In the absence of any specific agreement regarding the superstructure, it is to be construed that the building constructed voluntarily at the choice of the Lessee for establishing commercial premises is included for fixing fair rent. After such construction, the Lessee cannot claim that she will neither vacate the temple property nor pay the rent for the superstructure. The only option left out to the Lessee is to dismantle the superstructure and take away the materials. So long as the superstructure stands on the land belonging to the temple, the petitioner is liable to pay the rent for the superstructure also. If at all it is to be segregated, there must be a specific agreement between the parties to the *lis*. In the absence of any such agreement, the land and building situate in the land belonging to the temple and merely by stating that the petitioner has put up a superstructure, she cannot refuse to vacate the building and the land belongs to the temple.



Mere permission to construct the superstructure would not provide a right to the petitioner to claim that she will not vacate the premises, since she has put up a superstructure and she will not pay the rent for the superstructure.

Such a defense is not available to the Lessee.

32. Sub Section (3) to Section 34-A of the Hindu Religious and Charitable Endowments Act, contemplates that Any person aggrieved by an order passed under sub-section (2), may, within a period of thirty days from the date of receipt of such order, appeal to the Commissioner, in such form and in such manner, as may be prescribed. However, Sub Section (4) states that the Commissioner may after giving the person aggrieved an opportunity of being heard pass, such order as he thinks fit.

33. In the present case, the petitioner has not exhausted the remedy contemplated under the provisions of Section 34-A of the Hindu Religious and Charitable Endowments Act, regarding the fixation of lease rent. The appeal before the Commissioner is an efficacious and a statutory remedy and therefore, the present writ petition cannot be entertained without exhausting the statutory remedy contemplated. Regarding fixation of rent, if



at all the petitioner raises any other ground other than the ground raised stating that the Authorities cannot fix the rent for the superstructure, then it is to be adjudicated before the Commissioner. Hence, in this regard, the petitioner if aggrieved has to approach the Commissioner.

34. Regarding Section 79-C of the Hindu Religious and Charitable Endowments Act, it unambiguously stipulates “without prejudice to any other mode of recovery which is being taken or may be taken under this Act or any other law for the time being in force, any moneys due to a religious institution may be recovered as if it were an arrear of land revenue and for the purposes of such recovery, the Commissioner of the Hindu Religious and Charitable Endowments (Administration) Department or any officer not below the rank of Deputy Commissioner authorised by the Commissioner in this behalf, shall have the powers of a Collector under the Tamil Nadu Revenue Recovery Act, 1864 (Tamil Nadu Act II of 1864)].”

35. Therefore, an order of attachment is passed by invoking Section 79-C of the Hindu Religious and Charitable Endowments Act, to recover the arrears of lease rent fixed by the Competent Authorities. The petitioner is at



liberty to prefer an appeal before the Commissioner under Sub Section (3) to Section 34-A of the Hindu Religious and Charitable Endowments Act or pay the lease rent of her choice. Contrarily, she cannot be allowed to continue in possession illegally in the absence of valid lease and through litigious possession. Such a litigious possession for an indefinite period would cause prejudice to the Temple Administration and would result in financial loss. Thus, the Courts cannot encourage such litigious possession for an indefinite period and all such issues are to be determined by the Commissioner in the present case, since the appeal has been contemplated under the Hindu Religious and Charitable Endowments Act.

36. In view of the facts and circumstances, the petitioner is at liberty to prefer an appeal to the Commissioner, Hindu Religious and Charitable Endowments Department, regarding the quantum of fair rent fixed by the Competent Authorities. However, the petitioner, being a defaulter in payment of rent, for more than 2-1/2 years is liable to pay the rent even before filing any such appeal. If at all there is any difference in rent that is to be adjusted or refunded, after deciding the appeal by the Commissioner. The Temple cannot be put to hardship unnecessarily, since the petitioner is a



defaulter and the temple had suffered monetary loss due to non-payment of rent from the subject property.

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37. In fine, this Court do not find any merit in respect of the claim set out by the petitioner. In the absence of paying the rent, there is no impediment for the respondents to proceed with the actions already initiated under Section 79-C of the Hindu Religious and Charitable Endowments Act.

38. With these observations, the present writ petition stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are also dismissed.

12.04.2023

Svn/Jeni
Index : Yes
Speaking order
Neutral Citation : Yes



To

1. The Joint Commissioner,
O/o. Joint Commissioner,
Chennai Zone – 2,
Hindu Religious & Charitable Endowments Department,
Mylapore, Chennai – 600 004.
2. The Assistant Commissioner,
O/o. Assistant Commissioner,
Hindu Religious & Charitable Endowments Department,
Padi, Chennai – 600 040.
3. The Executive Officer,
Arulmighu Sathiya Varadharaja Perumal Thirukoil,
Arumbakkam,
Chennai – 600 106.
Located in Arulmigu Egambarareswar Thirukoil,
Aminjikai, Chennai – 600 029.



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S.M.SUBRAMANIAM, J.

Svn/Jeni

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