



W.P.No.15276 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.15276 of 2023

Shammer S.Shah
(senior citizen)

... Petitioner

.Vs.

- 1.The Commissioner
Hindu Religious and Charitable
Endowments Department
Uthamar Gandhi Salai
Nungambakkam
Chennai-34.
- 2.The Joint Commissioner
Hindu Religious and Charitable
Endowments Department
Sathuvachari Road
Vellore-9.
- 3.The Assistant Commissioner
Hindu Religious and Charitable
Endowments Department
Kancheepuram Division
O/o. The Assistant Commissioner
Hindu Religious and Charitable
Endowments Department
Kancheepuram.
- 4.The Executive Officer
Arulmighu Egambaranathar Temple
and Devasthanam
Kancheepuram.

.. Respondents



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Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the 4th respondent to withdraw the letter dated 14.04.2023 sent to the petitioner and obey the orders passed by this Hon'ble Court on 02.03.2023 in W.P.Nos.12140 of 2013 and 9711 of 2023 and thereon de-seal the premises immediately that was sealed on 16.12.2022.

For Petitioner

Mrs.AL.Gandhimathi
Senior Counsel
for Mr.K.Arvind

For Respondents

Mr.K.Karthikeyan
Government Advocate
for R1 to R3
Mr.R.Bharanidharan
Standing Counsel
for R4

ORDER

This writ petition has been for the issue of a writ of mandamus directing the 4th respondent to withdraw the letter dated 14.04.2023, sent to the petitioner and to comply with the earlier order passed by this Court in W.P.Nos.12140 of 2013 and 9711 of 2023, dated 02.03.2023.

2.Heard Mrs.AL.Gandhimathi, learned Senior Counsel for the petitioner, Mr.K.Karthikeyan, learned Government Advocate for R1 to R3 and Mr.R.Bharanidharan, learned Standing Counsel for R4.



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3. The facts leading to the filing of the present writ petition can be culled out from the earlier order passed by this Court on 02.03.2023 and it is extracted hereunder:

4. *It is the main grievance of the petitioner that he is the tenant under the respondents. The respondents have initiated a proceedings dated 04.03.2020 by under Section 78 of HR & CE Act. Pursuant to which, the buildings of the petitioner have been sealed for non-payment of the rent on 16.12.2022. In the meanwhile, these writ petitions have been filed.*

5. *When the matters are taken up for hearing, the learned Senior Counsel appearing on behalf of the petitioner submitted that the respondents have not fixed the fair rent in respect of the subject properties as per law and it is relevant to note that the fair rent has been fixed from 01.02.2010 and a copy of the fair rent has already been served and the same has not been challenged and become final, which culminated into the order under Section 78 of HR & CE Act. When the Court was about to dismiss the writ petitions, the learned Senior Counsel, on instructions, submitted that as on date, a sum of Rs.85 lakhs is payable by the petitioner and taking note of the various circumstances, building is also constructed by the petitioner and requests that some amount may be reduced and the petitioner is ready to deposit the rent in installments.*

6. *The learned Special Government Pleader submitted that for quietus, if the petitioner will pay a sum of Rs.85 Lakhs towards arrears of rent and besides execute the gift deed in favour of the temple and the petitioner will pay the fair rent fixed by the authorities continuously, the*



respondents will consider and regularise the tenancy.

7. *In reply, the learned Senior Counsel for the petitioner, on instructions, submitted that the petitioner has filed a memo stating that he will immediately deposit a sum of Rs.30 Lakhs and also he is ready to execute a gift deed in favour of the temple and the remaining arrears of Rs.55 Lakhs will be paid within a period of six months and the petitioner will abide the fair rent which was already fixed by the respondents and he will continue to pay the rent.*

8. *In view of the submission made by the learned Senior Counsel appearing on behalf of the petitioner and taking note of the memo filed by him, this Court passes the following orders:*

"i) The petitioner shall pay a sum of Rs.30 Lakhs to the respondents towards rental arrears in respect of the temple property within a period of one month from the date of receipt of a copy of this order and he shall pay the remaining amount of Rs.55 Lakhs towards rental arrears to the respondents within a period of six months, thereafter;

ii) the petitioner shall execute a gift deed as agreed before this Court in favour of the temple;

iii) the petitioner shall continue to pay the fair rent which was already fixed by the respondents in respect of the subject properties; and

iv) Upon receipt of such payment of thirty lakhs, the respondents shall de-seal the premises within a period of one week from the date of receipt of the payment. If the petitioner fails to comply with any of the above conditions, the temple authorities shall evict the petitioner from the premises as per law. "



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4.Pursuant to the above order, the petitioner had also paid the sum of Rs.30 Lakhs and was requesting the 4th respondent to de-seal the property. However, the petitioner received a communication dated 14.04.2023 with a worksheet directing the petitioner to pay the rent at the rate of Rs.7.19 Lakhs per month. The premises was also not de-sealed. Aggrieved by the same, the present writ petition has been filed before this Court.

5.In the considered view of this Court, if the respondents were aggrieved by the order passed in the writ petition or they had identified an error apparent on the face of the order, the respondents ought to have moved a review petition or they ought to have challenged the order by filing a writ appeal. The respondents have not chosen to resort to any of these reliefs. Out of the blue moon, a letter dated 14.04.2023, has been addressed by the 4th respondent to the petitioner and as per the working sheet, the petitioner was asked to pay rent at the rate of Rs.7,19,720/- per month. In the absence of the petitioner paying such rent, the property was also not de-sealed.

6.The learned counsel appearing on behalf of the 4th respondent submitted that the 4th respondent never intended to fix the rent unilaterally as was understood by the petitioner and it was only an information that was sent to the petitioner based on the prevailing rent in the locality. The learned counsel fairly submitted that the fair rent will be fixed only after putting the petitioner on notice and after following the proper procedure. It was clarified by the learned counsel for the 4th respondent that the direction given in para 8 (iii) should not



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be taken as if, the petitioner will continue to pay the rent that was already fixed for ever.

This rent is payable by the petitioner only till a fresh rent is fixed by the Committee after affording an opportunity to the petitioner.

7.The clarification given by the learned counsel appearing on behalf of the 4th respondent sufficiently answer the grievance that has been expressed by the petitioner. When the writ petition was entertained, this Court also passed an order of interim direction directing the removal of the seal and accordingly, the premises has been de-sealed.

8.In the light of the above discussion, it is made clear that the 4th respondent did not intend to straight away collect the rent from the petitioner as per the working sheet that was served on the petitioner. The 4th respondent shall follow the proper procedure by issuing notice to the petitioner and the petitioner shall be given an opportunity by the fee fixation Committee before the fair rent is fixed. Till then, the petitioner shall pay the rents as directed by this Court in para 8 (iii) of the order.

9.The confusion was caused due to the letter that was issued by the 4th respondent along with the working sheet and the premises was also not sealed. In view of the same, the petitioner has not executed the gift deed till date. Now that the position has been clarified and the premises has been de-sealed, the petitioner is directed to comply with para 8(ii) and the gift deed shall be executed in favour of the Temple within a period of two



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weeks from the date of receipt of copy of this order. The petitioner shall also pay the rents regularly as directed in para 8 (iii) till the fair rent is fixed.

10.This writ petition is disposed of in the above terms. No costs.

22.06.2023

KP

Internet : Yes/No

Index : Yes/No

Neutral Citation :Yes/No

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N.ANAND VENKATESH, J.

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