



Writ Petition No.16939 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2023

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.16939 of 2023

and

W.M.P.No.16152 of 2023

R.Prakash

S/o.Ramasamy

...Petitioner

Vs

1.The Commissioner,
Tamil Nadu Hindu Religious and Charitable
Endowment (H.R.&C.E.),
Uttamar Gandhi Salai,
Nungambakkam, Chennai - 600 034.

2.The Joint Commissioner,
O/o.Joint Commissioner,
The Tamil Nadu Hindu Religious and Charitable
Endowment (H.R.&C.E.),
No.119, A.K.Thangavelar Street,
Chinna Kancheepuram - 631 501.

3.The Assistant Commissioner,
HR & CE,
No.28, J.C.K.Nagar,
Chengelpet - 603 001.

4.The Executive Officer,
Arulmigu Kandaswamy Thirukoil,
Thiruporur, Chengelpet District - 603 110.

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the respondents to consider the petitioner's representation dated 23.05.2023 by giving opportunity to the petitioner and consequently, refix the fair rent according to law within a stipulated time as fixed by this Court.

For Petitioner : Mr.S.Shanmuga Sundaram

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

ORDER

This writ petition has been filed for issuance of a writ of mandamus directing respondents to consider the representation made by the petitioner on 23.05.2023 and to refix the fair rent in accordance with law within the time fixed by this Court.

2. Heard Mr.S.Shanmuga Sundaram, learned counsel for petitioner and Mr.N.R.R.Arun Natarajan, learned Special Government Pleader appearing for respondents.

3. The case of the petitioner is that his grandmother was originally the tenant under the fourth respondent temple and after her demise, the



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petitioner continued to occupy the property and is paying the rent. The grievance of the petitioner is that the fourth respondent unilaterally increased the rent from Rs.564/- to Rs.4,285/-. The petitioner gave his objections against the unilateral fixation of fair rent in the year 2017. The said objection was not considered and in the mean time, the petitioner was paying the rent regularly. All of a sudden, there was a threat of eviction on the ground that he did not pay the arrears of rent. Hence, the petitioner made a fresh representation to respondents on 23.05.2023 requesting for fixation of fair rent. Since this representation was not considered, the present writ petition has been filed before this Court seeking for appropriate directions.

4. Learned Special Government Pleader produced the written instructions received from the fourth respondent along with the relevant documents. It is seen from these documents that the fair rent was fixed by the Joint Commissioner through proceedings dated 26.03.2018 and the rent was fixed at Rs.4,285/-. This was also informed to the petitioner. If really the petitioner was aggrieved by the fair rent fixed by the Joint Commissioner, he ought to have filed an appeal before the Commissioner as provided u/s.34(A) of the Hindu Religious and Charitable Endowments Act, 1959 [for brevity



'the Act']. On going through the written instructions, it is also seen that certain allegations have been made against the petitioner to the effect that he has sub-let a portion of the property and he is also receiving rent to the tune of Rs.5,000/-. It is not necessary for this Court to go into the allegations made against the petitioner.

5. In the considered view of this Court, the petitioner had an efficacious alternative remedy of appeal before the Commissioner and without availing the same, the petitioner cannot be permitted to create a cause of action by giving a representation to respondents. This Court will not exercise its jurisdiction under Article 226 of the Constitution of India when there is an efficacious alternative remedy. The petitioner who was aware about the fixation of fair rent failed to file an appeal and when steps were taken to evict the petitioner for non-payment of arrears of rent, the petitioner gave a representation in the year 2023 and has filed the present writ petition before this Court. This attitude of the petitioner amounts to circumventing the remedy, which was very much available under the Act. Hence, this Court is not inclined to entertain this writ petition and if the petitioner is so advised and the law permits, the petitioner has to work out his remedy only before



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the Commissioner. Except giving this clarity, no further orders can be passed in this writ petition.

Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

08.06.2023

Index : Yes/No

Speaking order: Yes/No

Neutral citation: Yes/No

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N.ANAND VENKATESH, J

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