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W.P.Nos.23304, 23305, 23307, 23308, 23309, 23310 and 23311 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2023

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.Nos.23304, 23305, 23307, 23308, 23309, 23310 and 23311 of 2014
and
M.P.Nos.1, 1, 1, 1, 1, 1, 1, 2, 2, 2, 2, 2 and 2 of 2014

V.Peranandam	... Petitioner in W.P.No.23304/2014
M.Venugopal	... Petitioner in W.P.No.23305/2014
R.Natarajan	... Petitioner in W.P.No.23307/2014
G.Mani	... Petitioner in W.P.No.23308/2014
K.Devarajan	... Petitioner in W.P.No.23309/2014
V.Thaniasaru @ Tamilarasu	... Petitioner in W.P.No.23310/2014
K.Sampath	... Petitioner in W.P.No.23311/2014

vs.

- 1.The Commissioner,
HR & CE Administration Department,
Chennai – 34.
- 2.The Joint Commissioner,
HR & CE Administration Department,
Vellore.



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3. The Executive Officer,
Sri Arulmighu Vedagiriswarar Temple,
Thirukazhukundram,
Kancheepuram District.

... Respondents in all WPs

PRAYER in W.P.No.23304 of 2014: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to order passed in R.P.No.26 of 2012 dated 09.06.2014 on the file of the first respondent and the consequential order dated 11.08.2014 on the file of the third respondent dated 11.08.2014 and quash the same and direct the third respondent to receive the balance fair rent of Rs.37,050/- standing in the account of the petitioner in respect of the portion of the land under occupation and possession of the petitioner in S.No. 459/A1, Thirukazhukundram, Kancheepuram District and regularize the occupation of the petitioner.

PRAYER in W.P.No.23305 of 2014: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to order passed in R.P.No.28 of 2012 dated 09.06.2014 on the file of the first respondent and the consequential order dated 11.08.2014 on the file of the third respondent dated 11.08.2014 and quash the same and direct the third respondent to receive the balance fair rent of Rs.1,20,094/- standing in the account of the petitioner in respect of the portion of the land under occupation and possession of the petitioner in S.No. 459/A1, Thirukazhukundram, Kancheepuram District and regularize the occupation of the petitioner.

PRAYER in W.P.No.23307 of 2014: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified



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Mandamus, to call for the records pertaining to order passed in R.P.No.32 of 2012 dated 09.06.2014 on the file of the first respondent and the consequential order dated 11.08.2014 on the file of the third respondent dated 11.08.2014 and quash the same and direct the third respondent to receive the balance fair rent of Rs.69,066/- standing in the account of the petitioner in respect of the portion of the land under occupation and possession of the petitioner in S.No. 459/A1, Thirukazhukundram, Kancheepuram District and regularize the occupation of the petitioner.

PRAYER in W.P.No.23308 of 2014: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to order passed in R.P.No.36 of 2012 dated 09.06.2014 on the file of the first respondent and the consequential order dated 11.08.2014 on the file of the third respondent dated 11.08.2014 and quash the same and direct the third respondent to receive the balance fair rent of Rs.1,05,094/- standing in the account of the petitioner in respect of the portion of the land under occupation and possession of the petitioner in S.No. 459/A1, Thirukazhukundram, Kancheepuram District and regularize the occupation of the petitioner.

PRAYER in W.P.No.23309 of 2014: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to order passed in R.P.No.33 of 2012 dated 09.06.2014 on the file of the first respondent and the consequential order dated 11.08.2014 on the file of the third respondent dated 11.08.2014 and quash the same and direct the third respondent to receive the balance fair rent of Rs.16,098/- standing in the account of the



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petitioner in respect of the portion of the land under occupation and possession of the petitioner in S.No. 459/A1, Thirukazhukundram, Kancheepuram District and regularize the occupation of the petitioner.

PRAYER in W.P.No.23310 of 2014: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to order passed in R.P.No.29 of 2012 dated 09.06.2014 on the file of the first respondent and the consequential order dated 11.08.2014 on the file of the third respondent dated 11.08.2014 and quash the same and direct the third respondent to receive the balance fair rent of Rs.1,05,094/- standing in the account of the petitioner in respect of the portion of the land under occupation and possession of the petitioner in S.No. 459/A1, Thirukazhukundram, Kancheepuram District and regularize the occupation of the petitioner.

PRAYER in W.P.No.23311 of 2014: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to order passed in R.P.No.35 of 2012 dated 09.06.2014 on the file of the first respondent and the consequential order dated 11.08.2014 on the file of the third respondent dated 11.08.2014 and quash the same and direct the third respondent to receive the balance fair rent of Rs.15,098/- standing in the account of the petitioner in respect of the portion of the land under occupation and possession of the petitioner in S.No. 459/A1, Thirukazhukundram, Kancheepuram District and regularize the occupation of the petitioner.

For Petitioner : Mr.R.Natarajan
(in all WPs)



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For R1 and R2 : Mr.K.Karthikeyan
Government Advocate (HR and CE)
(in all WPs)

For R3 : Mr.P.Wilson
for M/s.A.S.Kailasam and Associates
(in all WPs)

COMMON ORDER

These writ petitions are filed challenging the order passed by the 1st respondent in R.P.Nos.26, 28, 29, 32, 33, 35 and 36 of 2012 dated 09.06.2014.

2. According to the petitioners, they have been in possession and occupation of the land belonging to the 3rd respondent/temple. The 2nd respondent initiated proceedings under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, for eviction of the petitioners. Ultimately, an eviction order was passed by the 2nd respondent against the petitioners on 13.03.2012. Aggrieved by the same, the petitioners filed revision petitions in R.P.Nos.26, 28, 29, 32, 33, 35 and 36 of 2012 before the 1st respondent.



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3. A reading of the order passed by the 1st respondent would suggest that the 1st respondent taking sympathetic view allowed the petitioners to get themselves regularised as lessees by directing them to pay the fair rent fixed by the committee. The impugned order reads that the petitioners failed to pay a meager rent fixed by the Fair Rent Committee. Therefore, the 1st respondent proceeded to dismiss the revision petitions filed by the petitioners.

4. The learned counsel appearing for the writ petitioners submitted that during pendency of the revision petition before the 1st respondent, as per the interim directions given, the petitioners deposited the portion of the arrears of rent and without taking into consideration the deposit made by the petitioners, the 1st respondent has passed the impugned order as if, the conditional order passed by the 1st respondent directing the petitioners to deposit arrears at the rate of 25%, has not been complied with. In support of his contention, learned counsel also has taken this Court to receipts issued by the 3rd respondent/temple for having received portion of rental arrears from petitioners pending revision.



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5. A perusal of the same would suggest that the petitioners herein deposited more than 25% of the arrears as directed by the 1st respondent while revision petition was pending. However, the impugned order was passed on the assumption that the petitioners failed to comply with the interim directions to pay rental arrears.

6. The learned Government Advocate (HR and CE) appearing for the respondents 1 and 2 and the learned counsel appearing for the 3rd respondent/temple submitted that the petitioners failed to pay any amount from 2014 during the pendency of the writ petitions.

7. The learned Government Advocate (HR and CE) appearing for the respondents 1 and 2 also circulated a calculation memo indicating rental arrears as on 31.01.2017 payable by the petitioners. As per the calculation memo submitted by the learned Government Advocate (HR and CE) appearing for the respondents 1 and 2, the petitioners are liable to pay the rental arrears as mentioned below as on 31.01.2017:-



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Sl. No.	Writ Petition Nos.	Name of the Petitioner	Rental Arrears
1.	W.P.No.23304/2014	V.Peranandam	Rs.65,389/-
2.	W.P.No.23305/2014	M.Venugopal	Rs.1,90,851/-
3.	W.P.No.23307/2014	R.Natarajan	Rs.1,25,672/-
4.	W.P.No.23308/2014	G.Mani	Rs.1,71,326/-
5.	W.P.No.23309/2014	K.Devarajan	Rs.30,286/-
6.	W.P.No.23310/2014	V.Thaniasaru @ Tamilarasu	Rs.1,75,851/-
7.	W.P.No.23311/2014	K.Sampath	Rs.29,286/-

8. During the course of argument, the learned counsel appearing for the petitioners submitted that the petitioners are ready to pay the entire rental arrears as per the calculation memo submitted by the learned Government Advocate (HR and CE) appearing for the respondents 1 and 2.

9. A perusal of impugned order would indicate a common order was passed in respect of fifteen revisions filed by 15 persons. It is not clear whether all the revision petitioners failed to comply interim direction issued by the Commissioner. The impugned order has been challenged only by eight out of fifteen revision petitioners. The petitioners herein demonstrated before this Court that they paid portion of rental arrears as directed by 1st respondent. Hence, the dismissal of all revisions on the ground even



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petitioners herein failed to comply interim direction to pay meagre rent is not sustainable. The photographs of shops run by the petitioners in the leasehold land also indicate building is in poor shape and there is nothing to presume petitioners are earning huge profit by exploiting leasehold land commercially. Hence, this Court feels it would be appropriate to set aside the order impugned in this writ petition, by directing 1st respondent to have a relook of the matter as far as the petitioners are concerned.

10. Accordingly, taking into consideration the impugned order has been passed without considering the payment made by the petitioners towards the rental arrears pending revision, this Court is inclined to set aside the impugned order passed by the 1st respondent. However, the petitioners are put on terms by directing them to deposit the entire rental arrears as per the calculation memo submitted by the learned Government Advocate (HR and CE) appearing for the respondents 1 and 2 as on 31.01.2017. The petitioners are granted eight weeks time from the date of receipt of copy of this order to pay the entire rental arrears as on 31.01.2017. In case, the petitioners failed to pay the arrears as indicated above, the writ petitions shall stand automatically dismissed without



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reference to this Court and the respondents 1 and 2 are at liberty to proceed further against the petitioners in accordance with law.

11. Hence, the writ petitions are allowed on condition that the petitioners shall make payment of rental arrears as indicated above, within a period of eight weeks from the date of receipt of copy of this order and the matter is remanded back to the file of 1st respondent for fresh disposal. The 1st respondent is directed to take up the revision petition for hearing and pass final orders on merits, after production of proof of compliance of order passed by this Court. No costs. Consequently, the connected miscellaneous petitions are closed.

10.08.2023

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
dm



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To

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S.SOUNTHAR, J.

dm

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