



W.A.No.2046 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

W.A.No.2046 of 2023

S.Rathinavel

.. Appellant

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
@ Nellukara Street, Kanchipuram
Kanchipuram District.

.. Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 01.06.2023 made in W.P.No.13932 of 2023.



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For the Appellant : Mr.S.Parthasarathy
Senior Counsel
For Mr.P.Dinesh Kumar

For the Respondents : Mr.N.R.R.Arun Natarajan
Special Government Pleader
(HR & Chief Engineer)
for Respondent-1

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

We have heard Mr.S.Parthasarathy, learned Senior Counsel for Mr.P.Dinesh Kumar, learned counsel for the appellant and Mr.N.R.R.Arun Natarajan, learned Special Government Pleader for the first respondent.

2. The appellant had filed writ petition bearing No.13932 of 2023 before the learned Single Judge thereby challenging the fair rent fixed by the first respondent.

3. Learned Senior Counsel for the appellant submits that the fixation of fair rent under the impugned demand notice was without



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adhering to the principles of natural justice. Prior to fixation of fair rent, no notice was issued to the appellant. Reliance is placed on the judgment of the Division Bench of this Court in the case of ***Arulmigu Angala Parameswari and Kasivishwanathaswami Temple Adimanaiveal House Owners Association v. State of Tamil Nadu [2009 (6) CTC 512]***.

3. Learned Special Government Pleader submits that in fact, the impugned demand notice was issued on 06.04.2022. The same was challenged for the first time in June 2023, that too, after the proceedings were initiated for eviction of the appellant. He further submits that the learned Single Judge has rightly considered that the appellant has alternative efficacious remedy available.

4. We have considered the submissions.

5. There is no dispute that the appellant has an alternative remedy available, as has been observed by the learned Single



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Judge, under Section 34-A of the Tamil Nadu Hindu Religious and Charitable Endowments Act. However, it also appears that prior to the fixation of fair rent, no notice was issued to the appellant calling for the appellant to put forth his objection.

6. The Division Bench in the case of **Arulmigu Angala Parameswari** supra, has held that though the Act does not prescribe issuance of show cause notice, still the principles of natural justice are required to be followed. The Government Order dated 02.02.2009 was relied upon in the said judgment.

7. As the principles of natural justice has not been followed, we exercise our jurisdiction and set aside the order of the learned Single Judge. The impugned demand of fair rent shall be construed as a show cause notice to the appellant. The appellant shall file his reply to it within ten days from today. The respondent shall, thereafter, consider the said reply and the grounds raised by the appellant and take decision afresh, in accordance with law.



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8. The writ appeal is, accordingly, disposed of. There will be no order as to costs. Consequently, C.M.P.Nos.17365 and 17368 of 2023 are closed.

(S.V.G., CJ.)

(P.D.A., J.)
09.08.2023

Index : Yes/No
Neutral Citation : Yes/No

kpl

To

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