



W.P.No.22660 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.08.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.22660 of 2023

and

W.M.P.Nos.22113 and 22116 of 2023

V.Vijayaraghavan

... Petitioner

Vs.

1.The Joint Commissioner,
H.R & C.E. Department,
Myladuthurai.

2.A/m Duropathiammal Temple,
Represented by its Hereditary Trustee
P.Rajan,
No.63, S.N.G. Nagar,
Tharangambadi Salai,
Mayilduthurai Town.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records of the first respondent's impugned Notice No.20/2022/E1, dated 06.07.2022, issued under Section 78(2) of the H.R. & C.E Act, in respect of the land and building bearing Door No.22-I, comprised in T.S.No.242, Ward No.3, Block



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No.7, Mayiladuthurai Town, measuring 1394 sq.ft., in which the petitioner is the tenant under the second respondent, quash the same.

For Petitioner : Mr.B.Jawahar

For Respondents :

For R1 : Mr.K.Karthikeyan
Government Advocate

ORDER

Mr.K.Karthikeyan, learned Government Advocate takes notice on behalf of the first respondent.

2. The petitioner has challenged the impugned Notice No.20/2022/E1 dated 06.07.2022 issued by the first respondent under Section 78(2) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (hereinafter referred to as the TNHR&CE Act) seeking to evict the petitioner failing to pay the fair rent that was fixed at Rs.14,700/- per month. It appears that the tenancy of the petitioner was also terminated on 28.09.2021.

3. The case of the petitioner appears to be that the second respondent Temple is not a Temple governed by the HR & CE Department under the provisions of the TNHR&CE Act.



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4. It is submitted that the Hereditary Trustees of the Temple had also filed a suit in O.S.No.112 of 1996 questioning the jurisdiction of the HR&CE Department to interfere with the management of the second respondent Temple. Hence, it is submitted that the question of imposing fair rent of Rs.14,700/- on the property of the Temple, which is not governed by the HR &CE Department under the provisions of the TNHR&CE Act does not arise. It is further submitted that the petitioner has also filed a suit against the second respondent in O.S.No.31 of 2022 and has secured an interim order on 17.07.2022 in I.A.No.2 of 2022.

5. Opposing the prayer, the learned Government Advocate for the first respondent has submitted that this Writ Petition is devoid of merits and is liable to be dismissed as the petitioner has not challenged fixation of fair rent by the authorities under the provisions of Section 34-A(3) of the TNHR&CE Act. It is submitted that no appeal has been filed by the petitioner against the aforesaid order.



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6. That apart, it is submitted that the impugned proceeding is premature as it is only a notice issued to the petitioner and therefore, even on this count also, this writ petition is liable to be dismissed.

7. That apart, it is submitted that in the impugned proceeding/Notice issued under Section 78(2) of the TNHR & CE Act, the petitioner has entered appearance on 30.08.2022 and filed vakalat and also filed a reply/counter on 09.03.2023 and therefore submits that writ petition is liable to be dismissed.

8. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Government Advocate for the first respondent.

9. There is no merits in the present writ petition. The petitioner has to workout his remedy before the authorities inasmuch as the proceedings under Section 78(2) of the TNHR & CE Act has been initiated to which, the petitioner has also replied as early as 09.03.2023 after entering appearance on 30.08.2022.



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WEB COPY 10. The petitioner has in any event filed a suit in O.S.No.31 of 2022 without impleading the HR & CE Department.

11. Be that as it may, there is no merits in the writ petition as the petitioner has not paid arrears of the rent that was being demanded from 2016.

12. The payment of a paltry rent of Rs.370/- as against Rs.14,700/- also cannot be allowed to be continued by filing this writ petition.

13. This Writ Petition is therefore dismissed. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

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Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation : Yes/No

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C.SARAVANAN, J.

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To

The Joint Commissioner,
H.R & C.E. Department,
Myiladuthruai.

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and

W.M.P.Nos.22113 and 22116 of 2023

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