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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.07.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD)No.17195 of 2023

and

W.M.P(MD)Nos.14390, 14392 & 14393 of 2023

Fernad Saminathan

... Petitioner

Vs.

1. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Neelagrishwarar Thoppu,
Srirengam, Trichy.
2. The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Neelagrishwarar Thoppu,
Srirengam, Trichy.
3. The Executive Officer/Thakkar,
Arulmigu Semmalai Kannimar Mariyamman
Karuppasamy Vagaiyara Thirukovilgal,
Kambalathupatty, Sekkanam Village,
Manapparai Taluk,
Trichy District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a ***Writ of Certiorari***, to call for the records pursuant to the impugned notice, dated 23.05.2018 and consequential impugned notice in Na.Ka.No.22/1433, dated 01.07.2023 issued by the 3rd respondent, to quash the same.



For Petitioner : Mr.B.Anandan
For R-1 & R-2 : Mr.S.P.Maharajan
Special Government Pleader
For R-3 : Mr.G.Mathavan

ORDER

This writ petition has been filed challenging the impugned notice, dated 23.05.2018 and the consequential impugned notice, dated 01.07.2023.

2. By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

3. Heard Mr.B.Anandan, learned Counsel appearing for the Petitioner and Mr.S.P.Maharajan, learned Special Government Pleader appearing for the respondent Nos.1 & 2 and Mr.G.Mathavan, learned counsel appearing for the 3rd respondent.

4. Admittedly, the petitioner is occupying the space belonging to the 3rd respondent Temple. According to the petitioner, he is occupying 2000 sq ft. only, for which the rent is fixed, as Rs.1000/-. Suddenly, the respondents have raised the rent and fixed as Rs.12,700/-. Moreover, in the impugned notice the area is wrongly mentioned as 6348 square feet. The



contention of the petitioner is that the respondents have taken into account the vacant land, but the petitioner is not occupying the said vacant land. Moreover, without issuing any notice and without granting any opportunities, the respondents have also fixed rent for vacant land as well as to the building.

5. Considering the facts and circumstances of the case, this Court is of the considered opinion that the petitioner shall pay a sum of Rs.3,000/- as rent for the space he is occupying. On such payment, the respondents shall conduct enquiry after granting opportunity to the petitioner and thereafter fix the fair rent. The respondents shall measure the land, building and the vacant site as well. The respondents shall fix rent only for the land the petitioner is actually occupying.

6. According to the petitioner and the respondents, the petitioner has already paid some amount and the same that amount shall be deducted while calculating rent as Rs.3000/-. The petitioner shall also pay arrear amount based on the above direction. The arrear amount shall be paid, within a period of 3 months. As far as the refixation is concerned the respondents shall conduct enquiry within a period of 6 months for refixation. Based the refixation order that would be passed after the enquiry, the petitioner shall pay the same.



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7. With these directions and observations, this Writ Petition is disposed of. No Costs. Consequently, ***W.M.P(MD)No.14392 of 2023*** is allowed and ***W.M.P(MD)Nos.14390 and 14393 of 2023*** are closed.

18.07.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No

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S.SRIMATHY, J.

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