



W.P.(MD)Nos.20960 of 2023 batch

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.09.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)Nos. 20967, 20971, 20986 & 20988 of 2023

and

W.M.P(MD)Nos. 17417, 17378, 17359, 17369 & 17371 of 2023

A. Gurusamy	... Petitioner in W.P.(MD)No. 20967 of 2023
T. Ramalingam	... Petitioner in W.P.(MD)No. 20971 of 2023
M.Shahulhameed	... Petitioner in W.P.(MD)No. 20986 of 2023
S.Sulthan	... Petitioner in W.P.(MD)No. 20988 of 2023

VS.

1. The Joint Commissioner/
Executive Officer,
Arulmigu Ramanathaswamy Thirukovil,
Rameshwaram,
Ramanathapuram District.



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2. The Commissioner,
Hindu Religious and Charitable
Endowment Department,
Chennai – 600 034.

... Respondents in all the
Writ Petitions

COMMON PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorarified Mandamus*, calling for the records pertaining to the impugned order passed by the 1st respondent in Na.Ka.No. 450/2021/Aa6 dated 10.07.2023 quash the same and directing the respondents to fix the rent as per the representation of the petitioner, dated 17.07.2023.

In all Writ Petitions

For Petitioners : Mr.N.Tamilmani

For Respondents : Mr.S.Ramesh,
Standing Counsel, for R-1

Mr.S.P.Maharajan,
Special Government Pleader, for R-2

COMMON ORDER

These writ petitions have been filed to quash the impugned order, dated 10.07.2023 directing the respondents to fix rent based on the representation, dated 17.07.2023.



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2. Since the issue involved in these Writ Petitions are same and similar all the writ petitions are taken up together and disposed of by this Common order.

3. Through the impugned order, dated 10.07.2023 the respondents have fixed rent to the tune of Rs.15,000/- per month, in the shop situated in western side Moondram Prakaram along with electricity charge to the tune of Rs.300/- per month and directed the petitioners to pay the same on or before 5th day of every English Calendar month.

4. The petitioners are doing business at the western side Moondram Prakaram nearly 120 years. They are selling Turmeric, Kumkum, Pictures of Gods, Handicrafts Articles from Sangu, Chozhi and Palm leaves.

5. The 2nd respondent has passed an order, dated 03.06.2013, directing the petitioners to vacate the shop on 30.06.2013. Challenging the same, all the shop keepers including the petitioners have filed writ petitions. On 09.01.2019, the Hon'ble Division Bench of this Court had passed an order, where



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the report of the Joint Commissioner-cum-Executive Officer was recorded. In the report, the Joint Commissioner-cum-Executive Officer had stated that there is a proposal to construct building in the East Car Street. After construction, the respondents would consider to accommodate 44 lessees. Thereafter, again the writ petitions came up for hearing on 28.11.2022, the Hon'ble Division Bench has held, since alternative building is not constructed and the proposal is pending, hence, as on when the construction is completed the petitioners may be given priority for getting alternative accommodation on payment of appropriate rent. Pending construction, the petitioners are directed to vacate the shop in question and hand over the vacant possession to the temple authorities. If the authorities are agreeing, they may be allowed in the present place till construction of the above said building on payment of increased rent.

6. Based on which the 1st respondent has passed the impugned order, dated 10.07.2023 by fixing monthly rent as Rs.15,000/-per month and electricity charge Rs.300/-per month. The contention of the petitioners is that they are paying monthly rent of Rs.860/- regularly without fail, but the respondents have increased the monthly rent which is exorbitant. The petitioners further submitted



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that the other shops inside the temple in the western side Moondram Prakaram and for the shops situated on the main road outside the temple, the respondents are collecting monthly rent from Rs.1440 to Rs.2030/- alone. Moreover, in the impugned order, the 1st respondent has fixed monthly rent with retrospective effect from 01.07.2022 onwards, which is against the settled proposition of law. Moreover, before increasing the rent the respondents have not issued any notice. Also has not provided with details of calculation, at what rate the rent is levied etc. and hence the fixation of exorbitant rent is against the principles of natural justice. Since the rent is excessive and arbitrary the petitioners have submitted representation, dated 17.07.2023 requested to re-fix the rent. Hence, the petitioners have filed these writ petitions to quash the excessive fixation of rent and to re-fix the rent based on the petitioners' representation, dated 17.07.2023.

7. The respondents have filed counter stating that these writ petitions are not maintainable since the petitioners are having alternative remedy to prefer an appeal before the Commissioner.



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8. The contention of the respondents is that the occupation of the petitioners and running shop in 3rd corridor of the temple affects the monumental and archeological value of the temple. Section 77 of the HR & CE Act, do prohibits that the religious institution should not lease or mortgage with possession or grant a license for occupation of any land belonging to the religious institution whether situated within or outside the precincts thereof or any space within or outside the Prakarams, Mandapams, Courtyards or Corridors of the religious institution and therefore, the petitioners are specifically prohibited under Section 77 of the HR & CE Act. Apart from the statute, the Hon'ble Division Bench in *Suo moto* W.P.No.574 of 2015 vide judgment, dated 07.06.2021 had directed the Government to preserve the temples architectural marvel. Based on the order the government had also issued circular to this effect. The Moondram Prakaram of Arulmigu Ramanathaswamy temple is world famous for its perfect architectural engineering marvel. The respondents are taking steps to keep the Moondram Prakaram clean, to preserve its antique and its true value.



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9. Heard Mr.N.Tamilmani, the Learned counsel appearing for the petitioners, Mr.S.Ramesh, the Learned Standing Counsel appearing for the 1st respondent, Mr.S.P.Maharajan, the Learned Special Government Pleader appearing for the 2nd respondent and perused the material documents available on record.

10. It is seen from the records that the petitioners are original lessees and running the shop in the same place for the past several decades. The respondents have initiated action to increase the rent. When the lessees refused to pay the increased rent, the respondents have directed to vacate the premises. As on date, the lessees had not paid the increased rent. If the petitioners are affected by the increased rent, they have alternate remedy. Moreover, the fixing of rent by taking the extent of the premises, rate etc. would be within the domain of the respondents and it deals with factual matrix, hence the writ petition cannot be entertained under Article 226.

11. Therefore, the petitioners are directed to prefer an appeal before the Commissioner / 2nd respondent, within a period of Two weeks from the date of



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receipt of a copy of the order. The Commissioner shall consider the appeal within a period of six months therefrom. The petitioners are directed to file an interim stay application and the stay application may be consider at an earliest.

12. As rightly pointed out by the respondents if the premises is let out it would affect the architectural marvel. Therefore, the respondents are at liberty to take policy decision to preserve the architectural marvel.

13. With these observations and directions, these Writ Petitions are disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes
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To

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2. The Commissioner,
Hindu Religious and Charitable
Endowment Department,
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S.SRIMATHY, J

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