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W.P.No.3832 of 2020

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 11.11.2024**

**CORAM:**

**THE HONOURABLE MR. JUSTICE S.SOUNTHAR**

**W.P.No.3832 of 2020**  
**and**  
**WMP.No.4550 of 2020**

B.Chandra

... Petitioner

Vs.

1.The Commissioner  
Hindu Religious and Charitable  
Endowments Department  
Chennai 600 034.

2.The Joint Commissioner/Executive Officer  
A/M. Kapaleeswarar Temple  
Mylapore  
Chennai 600 004.

...Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the second respondent in his proceedings dated 27.02.2018 in Na.Ka.No.12/2017/A4 quash the same and directing the respondents to refer the matter to the fair



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rent fixation committee as contemplated under Section 34-A of the Tamil Nadu Hindu Religious and Charitable Endowment Act, 22 of 1959.

For Petitioner : Mr.Abdul Majeed  
for Ms.G.Sumitra

For Respondents : Mr.N.R.R.Arun Natarajan  
Special Government Pleader

### **ORDER**

This Writ Petition is filed challenging the demand notice issued by the second respondent directing the petitioner to pay the arrears of rent at the rate of Rs.6,600/- per month from 01.07.2016. It is not in dispute that the petitioner is a tenant of the building which belongs to the second respondent temple situated in Door No.27/26.

2. According to the petitioner, he has been paying prevailing rent at the rate of Rs.1,630/- per month. Suddenly the petitioner received the impugned demand notice informing him that fair rent for his property was fixed as Rs.6,600/- per month from 01.07.2016. Aggrieved by the same, the petitioner has come before this Court.



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**3.** The learned counsel for the petitioner assailed the impugned order by submitting that the fair rent has to be fixed by the Committee under Section 34 (A) of the Tamil Nadu Hindu Religious & Charitable Endowment Act and the same can be done after affording reasonable opportunity to the petitioner. The learned counsel for the petitioner submitted that the order fixing the fair rent by the Committee was not at all served on the petitioner. Therefore, the petitioner also lost an opportunity of challenging the same by filing an appeal. Therefore, according to him the impugned demand notice issued by the second respondent without serving the order of fixing fair rent is liable to be set aside.

**4.** The learned Special Government Pleader appearing for the respondents submitted that before fixation of fair rent a show cause notice was issued to the petitioner on 27.02.2017 and only after affording opportunity to the petitioner the fair rent was fixed by the Committee at the rate of Rs.6,600/-



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5. When the learned Special Government Pleader appearing for the respondents was questioned as to whether the order passed by the Fair Rent Fixation Committee fixing rent at the rate of Rs.6,600/- was communicated to the petitioner, the learned Special Government Pleader appearing for the respondents fairly submitted that the same was not served on the petitioner and the copy of the order passed by the Fair Rent Committee fixing fair rent at the rate of Rs.6,600/- per month is furnished to the petitioner today. The copy of the same was also produced before this Court.

6. The learned counsel for the petitioner by taking this Court to the copy of the order passed by the Fair Rent Committee fixing the fair rent at the rate of Rs.6,600/- submitted that the order is not dated. Therefore, it was prepared subsequently.

7. A perusal of the order produced before this Court would suggest that the same was signed by the jurisdictional Joint Commissioner, the District Registrar of Chennai Central Region and the Executive Officer of the second respondent temple. Therefore, the genuineness of the said order cannot



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be doubted merely because the officers failed to mention the date and time while signing the order. Since the order fixing the fair rent is served on the petitioner only today at the time of hearing the Writ Petition, the petitioner is entitled to challenge the same by filing an appeal before the Commissioner under Section 34 (A) (3) of the Tamil Nadu Hindu Religious & Charitable Endowments Act.

8. As a pre-condition for filing an appeal, the petitioner has to deposit the arrears of rent as per the calculation in the fair rent fixation order. Admittedly, in the order produced by the learned Special Government Pleader the date of fixing the fair rent has not been mentioned.

9. In such circumstances, it is for the petitioner to deposit the arrears calculating the fair rent from 27.02.2018 (date of the impugned demand notice). In view of the same, the petitioner is directed to file an appeal before the Commissioner, HR & CE challenging the fixation of fair rent at the rate of Rs.6,600/- under Section 34 (A) (3) of the Tamil Nadu Hindu Religious & Charitable Endowments Act, within a period of 30 days from today. As a



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pre-condition for filing appeal, the petitioner shall deposit the arrears of rent at the rate of Rs.6,600/- from 27.02.2018 (date of impugned demand notice).

Since the petitioner is directed to avail alternative remedy of filing appeal, no further necessary orders to be passed in this Writ Petition.

**10.** At this juncture, the learned counsel for the petitioner submitted that the demand notice was issued by the respondents in the name of the petitioner's father namely, V.Harihara Sastrigal, who is no more and therefore, the petitioner, who is residing in the subject property, is permitted to file an appeal before the Commissioner, HR & CE.

**11.** With the above directions, this Writ Petition is disposed of.  
No costs. Consequently, connected Miscellaneous Petition is closed.

**11.11.2024**

Index : Yes / No  
Internet : Yes / No  
dna

**To**

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**S.SOUNTHAR, J.**  
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