



W.P.No.10703 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2024

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

W.P.No.10703 of 2024

and

W.M.P No.11793 of 2024

N.Ashok Kumar

.. Petitioner

Versus

1. State of Tamil Nadu
Rep. by the Additional Chief
Secretary to Government,
Department of Tourism, Culture
Religious Endowments,
Government of Tamil Nadu
Fort St. George,
Chennai-600 009.
2. The Commissioner
Hindu Religious and Chartiabale Endowments
No.119, Uthamar Gandhi Salai
Nungambakkam
Chennai-600 34.
3. The Assistant Commissioner
Hindu Religious and Chartiabale Endowments
No.119, Uthamar Gandhi Salai
Nungambakkam
Chennai-600 034
4. Arulmighu Selliamman Thirukoil



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Rep. by its Executive Officer
Velachery, Chennai-600 042.

..Respondents

Prayer: This Writ petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records and quash the impugned Notice dated 01.04.2024 issued by the Respondent No.4, and direct the Respondent No.2 to take on record and dispose the appeal preferred by the petitioner within such time period as may be prescribed by this Court.

For Petitioner : Mr.Manuraj

For Respondents : Mr.S.Ravichandran
Additonal Government Pleader

ORDER

This Writ Petition has been filed seeking a Writ of Certiorarified Mandamus to call for the records and quash the impugned Notice dated 01.04.2024 issued by the Respondent No.4, and direct the Respondent No.2 to take on record and dispose the appeal preferred by the petitioner within such time period as may be prescribed by this Court.

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

3. The facts of the case is that the petitioner is a tenant in the fourth



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respondent's temple and paying the rent regularly without any default.

While so, the fourth respondent had issued a notice on 04.06.2019 wherein, it was stated that the rent was increased as per Section 34 A of the Tamil Nadu Hindu Religious & Charitable Endowments Act, 1959. Challenging the notice dated 04.06.2019 the petitioner preferred an Appeal under Section 34(A)(3) of the HR&CE Act. However, the second respondent vide common order dated 07.03.2022 had dismissed the appeal on the ground of maintainability. Challenging the same the petitioner filed C.R.P.(NPD) No.3152 of 2022 and this Court vide order directed the second respondent to collect the rental arrears from the petitioner and thereafter number the appeal and dispose of the same in accordance with law. The petitioner has also paid the rental arrears. When this being the case, the second respondent without numbering the appeal had passed an order on 01.04.2024, wherein it has been alleged that the petitioner was default in payment of rent to the tune of Rs.48,500/-. The grievance of the petitioner is that the second respondent without numbering the appeal filed by the petitioner has passed the impugned notice dated 01.04.2024, wherein it has been stated that the rent was enhanced to Rs.48,500/- to Rs.10,291/- due to which there was default in



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payment of rent of Rs.34,74,045/- from the petitioner. Aggrieved over the order dated 01.04.2024 the petitioner has come up with this petition.

4. The learned counsel for the petitioner submitted that the second respondent ought to have numbered the appeal as per the directions of this Court, without numbering the appeal passing the impugned order is not fair. He further submitted that the default of rent and enhancement of rent can be decided in the appeal.

5. The learned Additional Government Pleader appearing for the respondent submitted that there was default on the payment of rent from the petitioner. He further submitted that the fourth respondent management vide order dated 18.04.2024 stated that the petitioner can be evicted from the subject property on the ground that he is an encroacher as he is not regular in payment of rent.

6. I have given anxious consideration to either side submissions



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and perused the materials available on record.

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7. On a perusal of records it is seen that this Court vide order dated 07.03.2022 in C.R.P.(NPD) No.3152 of 2022 has already directed the petitioner to deposit the revised rent from the date of intimation to the date of filing of appeals, together with arrears of rent, if any, till the date of intimation at the existing rate. On such deposit second respondent is directed to number the appeal and dispose of the same in accordance with law. Whiles the second respondent failed to number the appeal and passed the impugned order.

8. Considering the facts and circumstances of the case, this Court directs the second respondent to number the appeal and after numbering the appeal dispose of the same after conducting an enquiry by affording reasonable opportunity of hearing to the petitioner as well as the concerned parties and pass orders within a period of four months from the date of numbering the appeal, till such time the respondent should not take coercive action against the petitioner and should not evict the petitioner from the subject property.



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9. With the aforesaid direction, this Writ Petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

22.04.2024

Speaking order : Yes/No
Neutral citation : Yes/No
Index : Yes/No
smn

To
1. The Secretary to Government,
Department of Tourism, Culture



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Religious Endowments,
Government of Tamil Nadu
Fort St. George,
Chennai-600 009.

2. The Commissioner
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V.BHAVANI SUBBAROYAN, J.



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