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W.P.Nos.30693 of 2017 and 22330 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.30693 of 2017 and 22330 of 2021

And

W.M.P.Nos.33603 of 2017 and 23566 of 2021

E.Deenadayalan ... Petitioner in both the W.Ps.

Vs.

- 1.The Commissioner
Hindu Religious and Charitable Endowment Board,
Nungambakkam,
Chennai 600 034.
- 2.The Joint Commissioner
Hindu Religious and Charitable Endowment Board,
Nungambakkam,
Chennai 600 034.
- 3.The Assistant Commissioner
Hindu Religious and Charitable Endowment Board,
Nungambakkam,
Chennai 600 034.
- 4.The Executive Officer
A/m.Agateeswarar Swamy Thirukovil
Villivakkam,
Chennai 600 049. ... Respondents in both the W.Ps.

Prayer in W.P.No.30693 of 2017:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the second respondent to



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communicate to the petitioner, the impugned proceedings in Na.Ka. No.1864/2009/A2, dated 24.03.2017, to enable the petitioner to seek the revisional remedy before the first respondent as per the provisions of the Hindu Religious and Charitable Endowment Act, 1959.

Prayer in W.P.No.22330 of 2021:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the fourth respondent communication dated 15.09.2021, calling upon the petitioner to pay a sum of Rs.19,57,389/- towards rental arrears and to quash the same as illegal and invalid and consequently direct the fourth respondent to issue the petitioner a fresh demand in respect of rental arrears giving credit to all the payments made by the petitioner, and correcting the rent allegedly due by him.

For Petitioner : Mr.Ashok Menon

For Respondents : Mr.NRR.Arun Natarajan for R1 to R3
Special Government Pleader (HR&CE)
Mr.Wilson Topaz for R4
for M/s.A.S.Kailasam & Associates

COMMON ORDER

W.P.No.30693 of 2017 has been filed seeking issuance of Writ of Mandamus directing the second respondent to communicate to the petitioner, the impugned proceedings in Na.Ka. No.1864/2009/A2, dated 24.03.2017, to enable the petitioner to seek the revisional remedy before the first respondent as per the provisions of the Hindu



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Religious and Charitable Endowment Act, 1959.

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2.W.P.No.22330 of 2021 has been filed seeking issuance of Writ of Certiorarified Mandamus calling for the records of the fourth respondent communication dated 15.09.2021, calling upon the petitioner to pay a sum of Rs.19,57,389/- towards rental arrears and to quash the same as illegal and invalid and consequently direct the fourth respondent to issue the petitioner a fresh demand in respect of rental arrears giving credit to all the payments made by the petitioner, and correcting the rent allegedly due by him.

3.Since the issue involved in these writ petitions are interrelated, they are heard together and disposed of by way of a common order.

4.The learned counsel appearing for the petitioner submitted that the petitioner's vendor is a tenant under the fourth respondent. The petitioner's vendor constructed a superstructure to an extent of 2400 sq.ft. in S.No.11A/7B2 and thereafter sold the same to the petitioner vide sale deed dated 06.08.1998 registered as document no.1805 of 1998 in the office of the Sub Registrar, Villivakkam. For S.No.11A/7B2, the corresponding Town Survey is Block No.11,



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T.S.No.28. Thereafter, the petitioner is continuously enjoying the possession and property without any interference.

5.The learned counsel appearing for the petitioner further submitted that the petitioner paid a sum of Rs.4,700/- per month towards ground rent to the fourth respondent, however, the respondents issued show cause notice dated 28.05.2016 under Section 78 (2) of the Hindu Religious and Charitable Endowment Act and the petitioner submitted reply to the said notice, however, the second respondent suddenly came to the petitioner's premises on 23.11.2017 and issued proceedings dated 24.03.2017 and forcibly thrown the petitioner and his family members out of the premises and also thrown out the tenants who were in occupation of the other portions of the building.

6.The learned counsel appearing for the petitioner further submitted that the petitioner immediately requested the second respondent to furnish the details of the proceedings dated 24.03.2017 and since the same was not furnished, the petitioner filed W.P.No.30693 of 2017. Thereafter, the fourth respondent issued the communication dated 15.09.2021, calling upon the petitioner to pay a



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sum of Rs.19,57,389/- towards rental arrears and challenging the same, the petitioner has filed W.P.No.22330 of 2021.

7.The learned counsel appearing for the petitioner further submitted that pursuant to the order of this Court dated 27.11.2017 made in W.P.No.30693 of 2017, the petitioner paid a sum of Rs.4 Lakhs and pursuant to the order of this Court dated 30.11.2017 made in W.P.No.30693 of 2017, the petitioner paid a sum of Rs.2 Lakhs and thereafter, the premises were unlocked.

8.The learned counsel appearing for the petitioner further submitted that without going into the merits of the case, this Court may permit the petitioner to pay the monthly rent as demanded by the respondents and to pay the arrears amount by way of equal monthly installments as fixed by this Court and further submitted that the petitioner is ready to execute gift deed in respect of the superstructure in favour of Agatheeswarar Swamy Temple, Villivakkam, Chennai and further submitted that this Court may issue direction to the respondents to regularise the petitioner's tenancy after receipt of the entire amount and after the petitioner executes gift deed in favour of the Temple.



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9.The learned Special Government Pleader (HR&CE) appearing for the respondents 1 to 3 and the learned counsel appearing for the fourth respondent raise no serious objection. The learned counsel appearing for the fourth respondent submitted that the ground rent has been fixed at Rs.26,000/- per month and the total arrears amount due as on 30.09.2024 after adjusting the amount paid by the petitioner is Rs.24,50,462/-

10.Since the petitioner himself come forward to pay the monthly rent as demanded by the respondents and to pay the arrears amount by way of equal monthly installments and to execute gift deed in respect of the superstructure in favour of Agatheeswarar Swamy Temple, Villivakkam, Chennai, this Court is inclined to dispose of these writ petitions with the following directions:

(i)The petitioner shall pay the monthly rent of Rs.26,000/- on or before 7th of every succeeding English Calender month.

(ii)The petitioner shall pay the entire arrears amount of Rs.24,50,462/- (as on 30.09.2024) by way of ten monthly installments commencing from 07.11.2024. The petitioner shall pay a sum of



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Rs.2,90,462/- as the first installment. Thereafter, the petitioner shall pay the remaining arrears amount of Rs.21,60,000/- in nine equal monthly installments. (The petitioner shall pay a sum of Rs.26,000/- + Rs.2,90,462/- on or before 07.11.2024 and shall pay a sum of Rs.26,000/- + Rs.2,40,000/- on or before 7th of every succeeding English Calender month for a period of nine months commencing from 07.12.2024).

(iii)The petitioner shall execute gift deed in respect of the superstructure in favour of Agatheeswarar Swamy Temple, Villivakkam, Chennai, within a period of six weeks from the date of receipt of copy of this order.

(iv)After payment of the entire due amount, the petitioner shall continue to pay the monthly rent fixed by the respondent on or before 7th of every succeeding English Calender.

(v)After receipt of the entire arrears amount from the petitioner and after the petitioner executes gift deed in respect of the superstructure in favour of Agatheeswarar Swamy Temple, Villivakkam, Chennai, the respondents shall execute tenancy agreement in favour of the petitioner recognizing the petitioner as the tenant of Agatheeswarar Swamy Temple, Villivakkam, Chennai.

(vi)If the petitioner commits any default in complying with the



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directions issued in this order, the respondents are at liberty to evict the petitioner forthwith.

11.The writ petitions are disposed of with the above directions.

No costs. Consequently, the connected miscellaneous petition are closed.

30.09.2024

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

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Nungambakkam,
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M.DHANDAPANI,J.
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