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W.P.No.32823 of 2024.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.11.2024

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THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.32823 of 2024

R.Saravanan

...Petitioner

Vs.

1. Government of Tamil Nadu
Rep. By its Secretary to the Government
Hindu Religious and Charitable Endowments Department
Secretariat, Fort, St.George,
Chennai-600 009.
2. The Commissioner
Hindu Religious and Charitable Endowments Department
Nungambakkam
Chennai-600 034.
3. The Assistant Commissioner (Legal Cell)
Hindu Religious and Charitable Endowments Department
Nungambakkam
Chennai-600 034.
4. The Executive Officer
Arulmigu Sivasubramaniya Swami Thirukoil,
105, NSC Bose Road,
Chennai-600 079.
- 5.Arulmigu Sivasubramaniya Swami Thirukoil,



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105, NSC Bose Road,
Chennai-600 079.

WEB COPY 6. K.M.Kithar

..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari and Mandamus, to call for the records relating to Demand and tenancy termination notice dated 6.9.2024 in respect of premises bearing Door No. Plot No. 81/2 situated at Savari Muthu street, Mannady, Chennai-600001 measuring to an extent of 2193 sq.ft in survey No. 2421/2 issued by the 4th respondent and quash the same and consequently direct the respondents to take the appeal having N.Dis.No.823917/2024/D2 dated 19.9.2024 on file and dispose the same.

For Petitioner	: M/s.R.Nirmala Devi
For Respondent 1	: Mr.V.Jeevagiridharan Additional Government Pleader
For Respondent 2 to 4	: Mr.S.Ravichandran, Additional Government Pleader(HR&CE)

ORDER

Challenging the order passed by the 4th respondent directing the petitioner to pay arrears of fair rent from 01.07.2016 to 31.08.2024, the petitioner has come before this Court.

2. It is the case of the petitioner that subject property belonged to 4th



respondent temple. Originally, one K.M. Kithar was recognised as tenant of the site. The said Kithar sold the superstructure along with leasehold right in favour of one B.V.Mohan Kumar under registered sale deed dated 25.05.1994. From the date of purchase, the said Mohan Kumar paid the rent to the 4th respondent temple. Subsequently, the above said Mohan Kumar sold the superstructure to the petitioner under un-registered sale deed dated 21.05.2012 and requested the petitioner to pay the rent of the site of the 4th respondent temple. As per the request made by the petitioner's vendor, the petitioner has been paying the rent to the temple at the prevailing rate. In these circumstances, the petitioner received a communication from the 4th respondent calling for objection with regard to the fixation of fair rent at the rate of Rs.84,124/- retrospectively from 01.07.2016. Hence, the petitioner filed an objection in person on 12.09.2022. Thereafter, the petitioner was not called for any enquiry and no order fixing fair rent under Section 34A was served on the petitioner.

3. Now, suddenly, the 4th respondent issued impugned order directing the petitioner to pay enhanced fair rent at the rate of Rs.84,124/- per month from 01.07.2016 and threatening him with the action under Section 78 of HR & CE



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Act in case of failure to pay the fair rent from the year 2016. Aggrieved by the same, the petitioner has come before this Court.

4. The learned counsel for the petitioner submits that the order fixing fair rent was not at all served on the petitioner and therefore, the petitioner was not given an opportunity to challenge the order fixing fair rent before the Commissioner. The learned counsel further submits that petitioner submitted a representation before the 4th respondent immediately after purchase of the property from his vendor and the request of the petitioner was also not considered by the 2nd respondent.

5. A reading of the impugned order would suggest that the same was communicated to the petitioner with a direction to pay the arrears of rent cumulatively from the year 2016. The learned counsel for the petitioner submits that as per the communication of the 4th respondent dated 10.04.2023 in page 79 of the typed set of papers, fixation of fair rent was done by the jurisdictional Joint Commissioner in his proceedings in Se.Mu.Na.Ta.Na.Ka.No.6813/2022A3 dated 24.03.2023. The learned counsel



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for the petitioner, on instructions, submits that her client is ready to deposit fair rent fixed by the jurisdictional Joint Commissioner from 24.03.2023 within a time stipulated by this Court.

6. The petitioner is also willing to submit a fresh representation before the jurisdictional Joint Commissioner seeking attornment of tenancy in his favour. Taking into consideration the said concession made by the petitioner, he is directed to submit a fresh representation before the jurisdictional Joint Commissioner seeking attornment of tenancy in his favour. The competent authority shall consider the request of the petitioner by taking into consideration, his long possession and his willingness to pay the fair rent from the date of fixation on March 2023. The submission made by the learned counsel for the petitioner that her client is willing to pay the arrears of fair rent from 24.03.2023 at the rate of Rs.84,124/- per month within a period of eight weeks is recorded.



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7. Therefore, the petitioner is directed to pay the arrears of fair rent from 24.03.2023 to till date within a period of eight weeks from the date of receipt of copy of this order. The petitioner shall submit a proper representation before the jurisdictional Joint Commissioner for attornment of tenancy along with deposit of arrears of fair rent from 24.03.2023. The jurisdictional Joint Commissioner shall consider the same and pass final orders on merits within a period of twelve weeks from the date of submission of the representation.

8. Till the representation of the petitioner seeking attornment of tenancy is considered by the jurisdictional Joint Commissioner, no coercive steps shall be taken against the petitioner.

9. With these observations, the writ petition stands disposed of. No costs.

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Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation Case : Yes/No

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To

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Hindu Religious and Charitable Endowments Department
Secretariat, Fort, St.George,
Chennai-600 009.
2. The Commissioner
Hindu Religious and Charitable Endowments Department
Nungambakkam
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S.SOUNTHAR, J.
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