



WP(MD)No.438 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 09.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

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S.Saravanan

.. Petitioner

v.

1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Nungambakkam High Road,
Chennai.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Trivandrum Road,
Palayamkottai, Tirunelveli.

3.The Administrator,
Thondai Mandala Atheenam,
No.57, Neemethakarai Street,
Periya Kanjipuram.

4.The Atheena Karthar,
Thondai Mandala Atheenam,
Rep. by Atheena Karthar,
At presently the Administrator,
No.57, Neemethakarai Street,
Periya Kanjipuram.

.. Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the second respondent to register the petition seeking fair rent fixation filed by the petitioner dated 27.09.2021 and pass suitable orders.

For Petitioner : Mr.S.Meenakshi Sundaram,
Senior Counsel
for Mr.R.T.Arivukumar

For Respondents : Mr.P.Subba Raj,
Special Government Pleader
for R.1, R.2

ORDER

The petitioner, with a grievance that the second respondent has not fixed the fair rent for the Temple property, wherein he is in occupation, has filed this writ petition.

2.Learned Senior Counsel appearing for the petitioner submitted that the subject vacant land has been leased out to the petitioner in the year 1988 and he has also put up a construction with the consent of the respondents 3



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& 4 / Mutt authorities. However, the respondents 3 & 4 have demanded rent for the vacant land together with the building. Therefore, the petitioner has raised an objection and filed an application in the year 2021 before the second respondent to fix the fair rent for the land, which has been leased out by the third respondent.

3.Learned Senior Counsel further submitted that the petitioner is having voluminous documents to substantiate his case that the building lying in the subject land is constructed by the petitioner, with the permission given by the respondents 3 & 4. However, his application for fixation of fair rent is kept pending without any progress.

4.Mr.P.Subba Raj, learned Special Government Pleader took notice for the respondents 1 & 2 and submitted that the fair rent has already been fixed. He has also produced a copy of the order passed by the second respondent / Joint Commissioner dated 11.09.2023 fixing the fair rent for the subject property.



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5.Learned Senior Counsel appearing for the petitioner was surprised on this order and submitted that it has not been served upon them. He further submitted that this order was passed not on the application of this petitioner and that this order was passed behind his back without even providing an opportunity of hearing.

6.This Court considered the rival submissions made on either side and perused the available materials.

7.The petitioner has approached this Court for a mandamus directing the second respondent to fix the fair rent on his application dated 27.09.2021. The second respondent submitted that the fair rent has already been fixed on 11.09.2023. The petitioner is intending to challenge this order that it has been passed behind his back, without providing an opportunity and that too, not on the application of this petitioner.

8.The second respondent has passed this order u/s.34A of the Hindu Religious and Charitable Endowments Act, *suo-motu*, pursuant to the



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proceedings of the Fair Rent Fixation Committee dated 04.09.2023. An appeal provision is available under Sub-Section 3 of Section 34A that the person aggrieved by any of the order passed under Sub-Section 2 of Section 34A may prefer an appeal before the Commissioner within a period of thirty days from the date of receipt of a copy of this order.

9.Considering the fact that the petitioner is waiting for an outcome since 2021, that without providing him an opportunity of hearing the order dated 11.09.2023 has been passed and that it has also not been served upon him, this writ petition is disposed of with a liberty to the petitioner to prefer an appeal as against the order dated 11.09.2023 before the Commissioner of Hindu Religious and Charitable Endowments Department / first respondent, as per Section 34A (5) of the Act, within a period of four weeks from the date of receipt of a copy of this order. The first respondent shall entertain the application, without insisting on the limitation prescribed under the Act and shall pass appropriate orders, on merits and in accordance with law, after affording reasonable opportunity of hearing to the petitioner.



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B.PUGALENDHI, J.

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There shall be no order as to costs.

Index : Yes / No
NCC : Yes / No
Internet : Yes
gk

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To

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