



W.P.(MD) No.8465 of 2024 etc. batch

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.04.2024

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD) Nos.8465 to 8473 of 2024

and

**W.M.P.(MD) Nos.7661, 7687, 7685, 7678,
7683, 7662, 7680, 7681, 7684 & 7664 of 2024**

W.P.(MD) No.8465 of 2024

A.Jeyabalan

... Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable
Endowments Department,
No.119, Nungampakkam High Road,
Chennai – 34.

2.The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
Trichirapalli.

3.Arulmigu Thayumanaswamy Temple,
Rep. by its Executive Officer,
Assistant Commissioner,
Malaikottai, Trichirapalli District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for
issuance of a Writ of Certiorarified Mandamus, to call for the records of



W.P.(MD) No.8465 of 2024 etc. batch

the impugned order passed by the first respondent in R.C.No. 6394/2021/D2 dated 25.11.2022 and the consequential order passed by the third respondent in Na.Ka.No.918/2019/A5 dated 07.02.2024 and quash the same as illegal, unconstitutional and without jurisdiction and consequently remand the case back to the file of the third respondent and direct the third respondent/original authority to re-determine the fair rent prospectively i.e., from 21.08.2022 in view of the decision in **M.Gurusamy Nadar Vs. Commissioner, HR & CE Department**, reported in 2018 (3) MWN (Civil) 167, and **Arulmigu Angala Parameswari & Kasivishwanathaswami Temple Adimanaiveel House Owners' Association Vs. State of Tamil Nadu and others**, reported in 2009 (6) CTC 512.

For Petitioner : Mr.S.Ramesh

For R1 & R2 : Mr.P.Subbaraj
Special Government Pleader

COMMON ORDER

Mr.P.Subbaraj, learned Special Government Pleader, takes notice for the first and second respondents. With the consent of the learned counsels, all these 9 Writ Petitions are being disposed of, by this common order, at the time of admission.



W.P.(MD) No.8465 of 2024 etc. batch

2. The petitioners are aggrieved by the impugned orders dated 25.11.2022 passed by the first respondent fixing the fair rent and the consequential orders passed by the third respondent on 07.02.2024.

3. The impugned orders are primarily challenged in the light of the decision of the Division Bench of this Court in the case of **M.Gurusamy Nadar Vs. Commissioner, HR & CE Department**, 2018 (3) MWN (Civil) 167 and in the case of **Arulmigu Angala Parameswari & Kasivishwanathaswami Temple Adimanaiveel House Owners' Association Vs. State of Tamil Nadu and others**, 2009 (6) CTC 512. The learned counsel for the petitioners would draw attention of this Court to paragraph No.16 from the decision of the Division Bench of this Court in the case of **Arulmigu Angala Parameswari** referred to *supra* which reads as under:

16.In the order passed by the Commissioner, HR & CE Department, Chennai, it is stated that the rent has been fixed arbitrarily at Rs.6,000/- in the year 1998. When the Executive Officer of the temple has fixed the fair rent at Rs.6,000/- and that was the agreement till 2008, the tenant cannot be asked to pay more than what is agreed. Even, when the respondent is authorised to revise the rent, that cannot be with retrospective effect, as the tenant has indefeasible right to vacate the property, in case he is incapable of paying rent. The tenant cannot be mulcted by fixing



W.P.(MD) No.8465 of 2024 etc. batch

rent arbitrarily with retrospective effect. Under the Transfer of Property Act, 1882, the rent should be primarily agreed between the parties. Except by agreement or a specific contract, there is no legal obligation on the part of the tenant to pay any rent that may be asked by the landlord.

4. It is further submitted that the impugned orders seeking to demand fair rent retrospectively from the year 2016 are unsustainable.

5. On the other hand, the learned Special Government Pleader for the first and second respondents would submit that the impugned orders dated 25.11.2022 passed by the first respondent under Section 34-A(3) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 are categorical. It is submitted that although in sub-paragraph 1 of paragraph 12 of the impugned orders, there is a direction to the third respondent to re-fix the fair rent with effect from 01.07.2016, 01.07.2019 & 01.07.2022 as per the guidelines issued in G.O.(Ms) No.353 dated 04.06.1999, G.O.(Ms) No.456 dated 09.11.2007, G.O.(Ms) No.298 dated 20.07.2010 and the instructions issued in Rc.No.4551/2022/M2 dated 10.03.2022, whichever is applicable, the petitioners were directed to file their objections, if any, only with regard to the value of the property or



W.P.(MD) No.8465 of 2024 etc. batch

usage and extent of area of the property, within a period of 15 days from the date of receipt of the impugned orders. It is submitted that the petitioners have not complied with the above direction and therefore, these Writ Petitions challenging the impugned orders are without any merits.

6. It is further submitted that the challenge in these Writ Petitions to the impugned demand notices dated 07.02.2024 bearing reference Na.Ka.No.918/2019/A5 passed by the third respondent is without any merits. It is always open for the petitioners to file appropriate objections which may be considered by the third respondent.

7. I have considered the arguments advanced by the learned counsel for the petitioners and the learned Special Government Pleader for the first and second respondents.

8. The facts on record indicate that the petitioners were issued with notices by the third respondent Assistant Commissioner/Executive Officer of the Temple on 21.08.2020 which were the subject matter of the challenge by the petitioners before the first respondent Commissioner in



W.P.(MD) No.8465 of 2024 etc. batch

the following R.C.Nos. which culminated in the impugned orders dated

25.11.2022:-

Sl. No.	W.P.(MD) No.	Name of the Petitioner	Impugned order No.
1	8465/2024	A.Jeyabalan	R.C.No.6394/2021 D2
2	8466/2024	A.Jeyabalan	R.C.No.6395/2021 D2
3	8467/2024	Prabhulal Ladha Solanki	R.C.No.6388/2021 D2
4	8468/2024	Prabhulal Ladha Solanki	R.C.No.6379/2021 D2
5	8469/2024	A.Jeyabalan	R.C.No.6396/2021 D2
6	8470/2024	Prabhulal Ladha Solanki	R.C.No.6380/2021 D2
7	8471/2024	Devaraj Gidiya	R.C.No.14680/2021 D2
8	8472/2024	A.Anand	R.C.No.6382/2021 D2
9	8473/2024	S.Ganshyam	R.C.No.14681/2021 D2

All the impugned orders are identical. Therefore, the operative portion of the impugned order dated 25.11.2022 in R.C.No.6394/2021 D2 alone is extracted hereunder under:

12. Admittedly there is no dispute with regard to title of the property, but only with the fair rent fixed by the respondent temple. In view of the above discussions, and also after considering the arguments advanced by the counsels, perusing the records, the following directions are issued:-



W.P.(MD) No.8465 of 2024 etc. batch

- 1) *The Respondent temple should re-fix the fair rent with effect from 01.07.2016, 01.07.2019 & 01.07.2022 as per the guidelines issued in G.O.(MS).No.353 dated 04.06.1999, G.O.(MS) No.456 dated 09.11.2007 and G.O.(MS) No.298 dated 20.07.2010, and the instruction issued in Rc.No. 4551/2022/M2, dated 10.03.2022, whichever is applicable, and communicate the same to the Appellant along with the calculation sheet and details of arrears within 15 days from the date of receipt of this order.*
- 2) *The Appellant may file his objections, if any, only with regard to the value of the property or usage and area of the property, within 15 days from the date of receipt of this order, before the respondent temple.*
- 3) *If any objection received, the respondent temple is directed to consider the objections, only with regard to the value of the property or usage and extent of area of the property, and pass orders within 15 days from the date of receipt of the objections from the Petitioner. If no objection is received from the Petitioner herein, it is deemed that he has no objection whatsoever.*
- 4) *The Appellant is directed to settle the rental arrears in 06 equal month installments.*
- 5) *The rent paid in excess based on the earlier fixation, if any, shall be adjust against the future payments.*
- 6) *If the Appellant violates any one of the above conditions, it is open to Respondent temple to initiate action to vacate the Petitioner and restore property, in accordance with law as it may deem fit and proper.*



W.P.(MD) No.8465 of 2024 etc. batch

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7) *If the Appellant fails to settle the arrears, action shall be initiated under Sec 79-C of the Act.*

The Appeal Petition is hereby disposed of with the above directions.

9. In consequence of the aforesaid impugned orders, the third respondent has passed orders dated 07.02.2024 demanding the following amounts from the respective petitioners which are also impugned in these Writ Petitions:

Sl. No	W.P.(MD) No.	Name of the Petitioner	Impugned Demand Notice No.	Amount demanded from the petitioner
1	8465/2024	A.Jeyabalan	Na.Ka.No.918/2019/A5	Rs.19,47,210/-
2	8466/2024	A.Jeyabalan	Na.Ka.No.918/2019/A5	Rs.31,41,279/-
3	8467/2024	Prabhulal Ladha Solanki	Na.Ka.No.918/2019/A5	Rs.22,49,448/-
4	8468/2024	Prabhulal Ladha Solanki	Na.Ka.No.918/2019/A5	Rs.6,12,898/-
5	8469/2024	A.Jeyabalan	Na.Ka.No.918/2019/A5	Rs.11,49,043/-
6	8470/2024	Prabhulal Ladha Solanki	Na.Ka.No.918/2019/A5	Rs.22,49,448/-
7	8471/2024	Devaraj Gidiya	Na.Ka.No.918/2019/A5	Rs.8,68,852/-
8	8472/2024	A.Anand	Na.Ka.No.918/2019/A5	Rs.28,01,950/-
9	8473/2024	S.Ganshyam	Na.Ka.No.918/2019/A5	Rs.74,07,250/-



W.P.(MD) No.8465 of 2024 etc. batch

10. Admittedly, the orders passed by the third respondent consequent to the orders passed by the first respondent are contrary to paragraph No. 16 of the order passed by the Division Bench of this Court in Arulmigu Angala Parameswari referred to supra which was reiterated by another Division Bench of this Court recently in the case of J.A.C.Raj Vs. The Commissioner of Hindu Religious and Charitable Endowments Department vide its order dated 08.08.2022 in W.A.(MD) Nos.503 and 509 of 2022. This order has also been followed by a coordinate Bench of this Court in the case of M.M.Vishal Vs. The Commissioner of Hindu Religious and Charitable Endowments Department vide its order dated 25.09.2023 in W.P.(MD) No.12742 of 2023.

11. Therefore, the demand that has been proposed by the third respondent from the respective petitioners pursuant to the impugned orders passed by the first respondent is unsustainable. At best, the demand has to be confirmed from the date of fixation of fair rent on 21.08.2020.

12. Therefore, the impugned orders passed by the first respondent as also the third respondent are modified by directing the third respondent to re-quantify the fair rent payable by the respective petitioners with effect



W.P.(MD) No.8465 of 2024 etc. batch

from 21.08.2020 being the date of fixation of fair rent under Section 31-A of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 for the present and intimate the same to the petitioners, within a period of 30 days from the date of receipt of a copy of this order.

13. The petitioners may file their objections, if any. However, such objections shall be entertained subject to the payment of the amount by the petitioners as may be re-quantified by the third respondent for the period with effect from 21.08.2020 being the date of fixation of fair rent under Section 31-A of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959.

14. Accordingly, these Writ Petitions stand disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

03.04.2024

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order

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W.P.(MD) No.8465 of 2024 etc. batch

Copy To:

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W.P.(MD) No.8465 of 2024 etc. batch

C.SARAVANAN, J.

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