



W.A.(MD)No.829 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 12.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE **RMT.TEEKAA RAMAN**
and
THE HONOURABLE MR.JUSTICE **N.SENTHILKUMAR**

W.A.(MD)No.829 of 2020

The Executive Officer,
Arulmigu Kalyanasundareshwarar Temple,
Avaniyapuram, Madurai South Taluk,
Madurai – 625 016.

... Appellant

-VS-

1.A.V.Marimuthu

2.The Commissioner,
Hindu Religious and Charitable Endowment Board,
119, Uthamar Gandhi Salai,
Nungambakkam, Chennai – 600 034.

3.The Deputy Commissioner,
Hindu Religious and Charitable Endowment Board,
119, Uthamar Gandhi Salai,
Nungambakkam, Chennai – 600 034.

4.The Joint Commissioner,
Hindu Religious and Charitable Endowment Board,
Ellis Nagar, Madurai City.

5.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Board,
Ellis Nagar, Madurai City.

...Respondents



W.A.(MD)No.829 of 2020

PRAYER: This Writ Appeal is filed under Clause XV of Letters Patent, to set aside the order dated 13.11.2019 passed in W.P.(MD)No.8340 of 2019, on the file of this Court.

For Appellant	:Mr.S.Manohar
For R1	:Mr.A.Saravanan
For R2 to R5	:Ms.D.Farjana Ghousia
	Special Government Pleader

JUDGMENT

[Judgment of the Court was made by **RMT.TEEKAA RAMAN, J.**]

The Executive Officer of Arulmigu Kalyanasundareswarar Temple/5th respondent in the Writ Petition, is the appellant herein.

2.The first respondent herein, who was the tenant of the lands belong to the Temple, is in occupation of 3300 sq.ft., of lands, in which he has put up a shed to an extent of 800 sq.ft., in S.No.10/11 in Ayanpappakudi, Madurai South Taluk. The Executive Officer of the Temple had issued a notice under Section 78(2) of the HR & CE Act on 17.01.2018 for recovery of arrears of rent. Challenging the said notification, the above Writ Petition had been filed by the first respondent herein on the ground that no opportunity has been granted to him.



W.A.(MD)No.829 of 2020

3.At the time of hearing the Writ Petition, the learned Counsel for the Writ Petitioner/tenant submitted that the Writ Petitioner is willing to vacate and hand over the possession of the property within a period of three months from 30.11.2019 and also filed an affidavit of undertaking to that effect. Based upon the said undertaking, the learned Single Judge has passed the following order:

“3.Considering the above submissions and also considering the age and avocation of the petitioner, a direction is given to the respondents not to insist the petitioner to pay arrears of rent.

4.The undertaking affidavit filed by the petitioner, dated 13.11.2019 is taken on file and shall form part of this order. If any default, the respondents are entitled to recover the arrears of rent.

5.With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.”

4.Aggrieved against paragraph 3 of the said order, the Temple has preferred the above appeal.

5.Heard the learned Counsels on either side.

6.The learned Counsel for the appellant submitted that the first respondent has vacated the premises and has not remitted the balance of arrears of rent to an extent of 46 lakhs.



W.A.(MD)No.829 of 2020

WEB COPY

7.The quantum is now disputed by the learned Counsel for the first respondent/Writ Petitioner. He drew our attention to the miscellaneous receipt issued by the Temple authorities, dated 12.06.2017 to say that the entire arrears has been paid.

8.On perusal of the said receipt which is found in the typed set, we find that the amount paid was for the Fasli-1425 and 1426, corresponding to English Calender, 1996 and 1997 only and hence, we have no hesitation to countenance the said submission made by the learned Counsel for the first respondent.

9.Since the Writ Petitioner has already vacated the premises and handed over the possession, the factum is hereby recorded. In respect of the arrears of rent, it is open to the Temple authorities to proceed in accordance with the HR & CE Act. In respect of the grievance of the Writ Petitioner, namely, the tenant, there is an alternative remedy provided under Section 34(A) of the Act before the competent authority. Hence, liberty is given to the first respondent/Writ Petitioner to avail the statutory remedy available under the statute, if he is so advised. In the event of any such appeal is filed under the Act, the period for



W.A.(MD)No.829 of 2020

which the Writ Petition as well as the Writ Appeal are pending before this Court shall be excluded for the purpose of calculating the limitation.

10.Further, in paragraph 3 of the order of the learned Single Judge, it is observed that if the Writ Petitioner vacates the premises, a direction was issued to the respondents in the Writ Petition not to insist the Writ Petitioner to pay arrears of rent. There cannot be any direction against the statute. Hence, the findings found in paragraph 3 is vacated.

11.Since the possession has already been taken, we find that nothing need to be gone into the Writ Appeal and hence, the Writ Appeal is closed. No costs.

[T.K.R., J.] [N.S., J.]

12.11.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

cmr



W.A.(MD)No.829 of 2020

To

WEB COPY

1.The Commissioner,
Hindu Religious and Charitable Endowment Board,
119, Uthamar Gandhi Salai,
Nungambakkam, Chennai – 600 034.

2.The Deputy Commissioner,
Hindu Religious and Charitable Endowment Board,
119, Uthamar Gandhi Salai,
Nungambakkam, Chennai – 600 034.

3.The Joint Commissioner,
Hindu Religious and Charitable Endowment Board,
Ellis Nagar, Madurai City.

4.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Board,
Ellis Nagar, Madurai City.



WEB COPY



W.A.(MD)No.829 of 2020

RMT.TEEKAA RAMAN, J.
and
N.SENTHILKUMAR, J.

cmr

W.A.(MD)No.829 of 2020

12.11.2024