



W.P.(MD) No.13492 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

**W.P.(MD) No.13492 of 2021
and
W.M.P.(MD) Nos.10442 and 10444 of 2021**

M.Chandrasekar

... Petitioner

/vs./

1.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Dindigul District.

2.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Dindigul District.

3.The Executive Officer,
Arulmigu Soundararaja Perumal Thirukovil,
Vadamadurai,
Vedasanthoor Circle,
Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings in Palavagai Manu No.26/2020 dated 23.02.2021 of



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the 1st respondent and the consequential eviction notice in Na.Ka.No. 3691/2019/A3 dated 14.07.2021 of the 2nd respondent and to quash the same as illegal and consequently direct the respondents to regularize the tenancy of the petitioner by fixing fair rent.

For Petitioner : Mr.C.M.Arumugam

For R1 & R2 : Mr.P.T.Thiraviam
Government Advocate (Crl.side)

For R3 : Mr.S.Manohar
Standing Counsel

ORDER

The petitioner has challenged the impugned eviction order dated 23.02.2021 passed by the first respondent in Palvagai Manu No.26/2020 and the eviction notice dated 14.07.2021 issued by the third respondent in Na.Ka.No. 3691/2019/A3.

2.It appears that the petitioner was issued with notice calling upon the petitioner to pay the arrears of rent up to October, 2018. The petitioner appears to have partly paid the amount on 15.06.2019 for a sum of Rs.13,275/- out of Rs. 1,29,430/-. The petitioner has evaded the rents payable to the third respondent



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temple. It is in this background proceedings were initiated under Section 78 of the HR & CE Act, 1959, which has culminated in the order passed by the first respondent dated 23.02.2021 and the consequential eviction notice dated 14.07.2021.

3.The learned counsel for the third respondent would submit that the period of tenancy has also come to an end and there has been no renewal. That apart, the learned counsel for the third respondent would submit that as on 04.01.2024, a sum of Rs.3,74,619/- is due from the petitioner. It is further submitted that the petitioner continues to occupy the shop, measuring an extent of 282 sq.ft without payment of rent all through the period during the pendency of the present writ petition. Hence, he prays for dismissal of this writ petition.

4.The learned counsel for the third respondent would further submit that the petitioner has an alternate remedy under Section 21 of the HR & CE Act, 1959 by way of revision before the Commissioner and therefore, on this count also, the present writ petition is liable to be dismissed.



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5.I have considered the arguments advanced by the learned counsel for the petitioner, learned Government Advocate (Crl.side) for the respondents 1 and 2 and the learned counsel for the third respondent.

6.The writ petition is devoid of merits, as the petitioner has not paid the arrears of rent that was due and payable to the third respondent temple. The petitioner has also not opted to challenge the order passed by the first respondent primarily on the ground that the order has been passed in violation of principles of natural justice. The fact however remains that the petitioner has defaulted in making timely payment of the rents and was in arrears of a sum of Rs.1,29,430/- as on October, 2018.

7.Considering the overall facts and circumstances of the case and to balance the interest of the petitioner as also the third respondent, liberty is given to the petitioner to file a statutory appeal under Section 21 of the HR & CE Act, 1959, before the Commissioner within a period of 60 days from the date of receipt of a copy of this order. The petitioner shall however deposit a sum of Rs. 2,00,000/- to the credit of the third respondent within a period of 30 days from the



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date of receipt of a copy of this order. Subject to such compliance, the appeal, if any, may be disposed of by the Commissioner on merits and in accordance with law. It is made clear that the petitioner shall continue to pay the rent without any failure.

8. With the above directions, this Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes / No
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04.04.2024

To

1. The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Dindigul District.
2. The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
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C.SARAVANAN, J.

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